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HM COURTS & TRIBUNALS SERVICE
LEASEHOLD VALUATION TRIBUNAL

CHI/19UJ/LDC/2012/0015

Decision of the Leasehold Valuation Tribunal on application(s) under Section 20ZA of the Landlord and Tenant Act 1985 as amended

Applicant Baywatch Management Company Limited

Respondents Mrs E Reyland (Flat 1A)
Mrs J Armstrong (Flat 1)
Mrs F Brown (Flat 2)
Mrs B Wood (Flat 3)
Mr & Mrs BJ Delves (Flat 4)
Mr I Darby (Flat 5)
Mrs I Hall (Flat 6)
Mr & Mrs G Roberts

Re: **Baywatch, 26 Greenhill, Weymouth,
Dorset DT4 7SG**

Date of Application 20 April 2012

Date of Inspection 3 May 2012

Date of Hearing 3 May 2012

Venue Flat 2 Baywatch (for convenience of the lessees, after establishing that none were proposing to attend at the original venue)

Appearances for Applicant Mr & Mrs Delves

Appearances for Respondent Mrs Brown in person

Members of the Leasehold Valuation Tribunal

M J Greenleaves
A J Mellery-Pratt FRICS

Lawyer Chairman
Valuer Member

Date of Tribunal's Decision: 3 May 2012

Decision

1. The Applicant is granted full dispensation under Section 20ZA of the Landlord and Tenant Act 1987 (the Act) from compliance with the consultation requirements of Section 20 of the Act in respect of work necessary to be done at Baywatch, 26 Greenhill, Weymouth, Dorset (the premises) consequent on failure of the passenger lift.
2. This decision was notified to the parties at the hearing.

Reasons

Introduction

3. This was an application made by the Applicant, the freeholder of the premises, for dispensation from compliance with the consultation requirements of Section 20 of the Act in respect of repairs to the passenger lift serving the First, Second and Third floor flats of the premises.

Inspection

4. The tribunal inspected the premises in the presence of Mr and Mrs Delves in the course of which it met a number of other lessees including Mrs Brown who permitted the tribunal to hold the hearing in her flat: flat 2. None of the other resident lessees wished to attend the hearing.
5. The premises comprise a purpose built block of 8 flats laid out on 4 floors which and was built in about 1985. The block appears to be in good condition for its age and character except that the lift ceased functioning on 30 March, 2012.

Hearing

6. Notice of application had been served on all of the Respondents, the tribunal having determined that as a number of occupiers were elderly and were having to use the staircase as the lift was not functioning, notice of hearing should be reduced to enable the hearing to take place on 3 May, 2012.
7. We, the tribunal, had been provided with a bundle of documents setting out the history concerning the breakdown of the lift and subsequent steps taken by the Applicant in obtaining quotations for remedial works and informing the lessees.
8. The lift had broken down on Friday, 30 March, 2012 and an engineer from the lift maintenance contractors – ThyssenKrupp Elevator UK Limited - attended the same day as a result of which another engineer from the same company attended on the Monday. It was diagnosed that the main processor had failed and needed replacing and the estimated cost was around £17,000. A quotation

from that company was received dated 4 April. It was for £17,756.36.

9. In the meantime the Applicant had arranged to obtain quotes also from Total Lifts and Meridian Lifts. The Applicant was advised that just replacing the microprocessor might only be a short-term solution in view of the age of the lift; that any further failures of other parts mean that just replacing the microprocessor was a waste of money. The resulting quotations from Total Lifts and Meridian Lifts for the microprocessor work and additional works totalled £10,636 and £5,688 respectively.
10. We were satisfied that on receipt of the Total Lifts quotation, the Applicant had written to the lessees on 4 April with a copy and requesting a contribution of £1300 per lessee. On 16 April the Applicant had again written to all lessees with the Meridian quotation and consequently asking for a contribution of £711 per lessee.
11. The Applicant had received written replies from or on behalf of all lessees except Mr Darby agreeing either the higher quotation or that from Meridian. As Mr Darby had not replied, Mrs Delves had telephoned him and left a message but had not had a reply. Having done so the Applicant wished to proceed with Meridian urgently in view of the substantial inconvenience and safety issues arising with elderly residents being unable to use the lift. They accordingly applied for the dispensation from the statutory consultation
12. We were told that all but one lessee had already made contributions of £711 each; that the Applicant would be able to place an order with Meridian immediately and they expected the work to be completed within 2 or 3 weeks.

Determination

13. In coming to our decision, we were entirely satisfied that the Applicant had acted very promptly in dealing with the lift breakdown and in obtaining quotations. (However, the extent or cost of the proposed works are not matters for us to determine within the present application). We also took into account that lack of a functioning lift resulted in significant safety and inconvenience for the residents which would continue for an extended period if the statutory consultation requirements had to be carried out. Furthermore, that the Applicant had already taken all reasonable steps to inform lessees and consult with them as to the problems and proposed course of action.
14. Accordingly we were satisfied that we should reasonably dispense with further consultation requirements of the Landlord and Tenant Act 1985.

Signed

MJ Greenleaves

Chairman

Member of the Leasehold Valuation Tribunal
appointed by the Lord Chancellor.