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LONDON RENT ASSESSMENT PANEL

**DECISION OF THE LEASEHOLD VALUATION TRIBUNAL ON AN APPLICATION
UNDER SECTION 20ZA OF THE LANDLORD AND TENANT ACT 1985**

Case Reference: LON/00BA/LDC/2012/0049

Premises: Flats 1-11, Iona, 65 Wimbledon Hill Road,
London SW19 7QP

Applicant: Indigo Scott

Representative: Residential Block Management Services Ltd

Respondents: Mr L Young (Flat 1)
Mr & Mrs C Patten (Flat 2)
Mrs H Needham (Flat 3)
Mr & Mrs G Parsons (Flat 4)
Mr & Mrs P Patel (Flat 5)
Mr & Mrs K Cain and Ms Varvaridze (Flat 6)
Mr & Mrs Harris (Flat 7)
Mr J Ryan (Flat 8)
Mrs P Shah (Flat 9)
Mr & Mrs J Scott (Flats 10 & 11)

**Leasehold Valuation
Tribunal:** Mr NK Nicol
Mr JF Barlow JP FRICS

Date of decision: 18th June 2012

Decisions of the Tribunal

The Tribunal has decided to grant to the Applicant's application for dispensation from the statutory consultation requirements.

The application

1. The Applicant is the freeholder of a block of 11 flats and the Respondents are the lessees of those flats. The basement contains a temporary holding tank for sewerage from the building. When it reaches a certain level, two electric pumps take the content out to the main drains. The pumps come within a maintenance contract the Applicant's agents, Residential Block Management Services Ltd, have entered into with the Pims Group. The estimated service charges for the year 2012 included the sum of £1,320 for that contract.
2. When engineers from the Pims Group attended on 3rd April 2012 to inspect a suspect pump, they found there had been electrical failure and burn out. They quoted for its replacement and the works were budgeted at £3,715.26 plus VAT. This put the charge per flat over the £250 limit which triggered the consultation requirements under s.20 of the Landlord and Tenant Act 1985 and the Service Charges (Consultation Requirements) (England) Regulations 2003. Unfortunately, the agents assessed the work as being more urgent than the period required by the consultation process would allow. In particular, the drainage of the sewerage from the building is being dealt with by one pump only – if that were to fail due to overuse, the consequences could be serious as the sewerage would remain within the basement of the building.
3. On 23rd April 2012 the agents sent a letter to each lessee which complied with the initial notice requirements of the statutory consultation process but warned them that the works were urgent and they would be applying to the Tribunal for dispensation from the statutory requirements. That application was duly made on 10th May 2012.
4. The Tribunal made directions on 18th May 2012 for the application to be dealt with on the papers, without a hearing. Provision was also made for any lessee to make representations. No-one asked for a hearing and none of the lessees submitted any representations (similarly, none had replied to the letter of 23rd April 2012). Therefore, the Tribunal went ahead with its determination on the papers provided by the Applicant's agents.

The Tribunal's consideration

5. The Tribunal has the power to dispense with the statutory consultation requirements under s.20ZA of the Act if satisfied that it is reasonable to do so. This is not a power to be taken lightly. The consultation requirements do not only provide protection for lessees in relation to what can be substantial expenditure but also provide for a rational decision-making process which should enable better decisions to be made by landlords and their agents about

the maintenance of relevant properties. On the other hand, if dispensation is not granted from the requirements in circumstances where they have not been complied with, the recoverable expenditure is limited to £250 per flat, which can leave a landlord seriously out of pocket.

6. The Tribunal is satisfied that the works were properly regarded as required and as more urgent than the statutory consultation process allows for so that there would have been insufficient time to comply with the full requirements. Further, it would appear that none of the lessees object to the works being carried out or to dispensing with the consultation requirements.

Conclusion

7. In the circumstances, the Tribunal is satisfied that it is reasonable to dispense with the statutory consultation requirements in relation to the works required to replace the non-operative pump.

Chairman: 

NK Nicol

Date: 18th June 2012