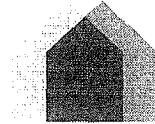


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**DECISION OF THE LEASEHOLD VALUATION TRIBUNAL ON AN APPLICATION
Under 20ZA and 27A OF THE LANDLORD AND TENANT ACT 1985**

Case Reference: LON/00BK/LSC/2012/0498

Premises: Grosvenor Lodge, 94 Grosvenor Rd, London
SW1V 3LF

Applicant: 94 Grosvenor Road (Freehold) Limited

Representative: Daunton Soar Chartered Surveyors

Respondent: The Leaseholders listed in the schedule attached
to the application

Representative:

**Date of Paper
determination:** 20 September 2012

**Leasehold Valuation
Tribunal:** Ms Evis Samupfonda LLB (Hons)
Mrs Jenna Davies

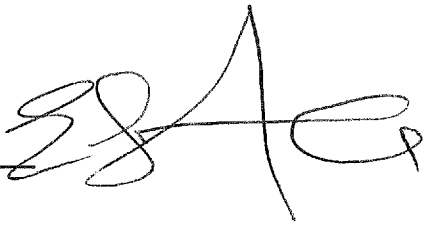
Date of decision: 20 September 2012

Decisions of the tribunal

- (1) The applicant freeholder seeks dispensation from some of the consultation requirements imposed by on the landlord by section 20 of the Landlord and Tenant Act 1985 (the Act.) The applicant also seeks the Tribunal's determination under section 27A of the Act in relation to the reasonableness of the costs to be incurred in respect of the boiler replacement and associated works.
- (2) Both of the applications are dated 16th July 2012. Directions were given on 7th August 2012 for the submission of documents and for the matter to be dealt with on the papers without an oral hearing unless the respondents requested an oral hearing. No such request was made. The applicant submitted a statement relating to the grounds for the application together with various supporting documents including a copy of the report on the condition of the boiler from a company known as WR Associates dated June 2006, a report from DMG Delta, heating engineers dated 24 February 2010 on the condition of the calorifier and a copy of the Notice of Intention to lessees dated 28th October 2011. In support of the application under section 27A, the applicant submitted copies of the quotations received to undertake the work.
- (3) There are two issues in this case; whether the consultation requirements of section 20 of the Act should be varied or dispensed with and under s27A whether the costs to be incurred would be reasonable if they were incurred. The Tribunal noted that a previous leasehold valuation tribunal decision Ref LON/00BK/LDC/2011/0113 granted the applicants' application to dispense with the consultation requirements in respect of the removal of asbestos from the boiler room. That work was not carried out. During the course of a regular inspection, it was noted that one of the calorifiers (being one of two large hot water storage tanks) was showing signs of starting to perish at the base of the tank. A report was commissioned from DMG Delta and it was stated that, "It is our opinion that this calorifier should be removed as a matter of urgency so as to prevent a major flood in the basement". The applicant contends that given the condition of the calorifier and the presence of asbestos it would be more cost effective to progress this work simultaneously. The presence of asbestos has limited free access to the boiler room, as it must be off limits to all persons unless suitably attired.
- (4) A copy of the statement of estimates in relation to the proposed work dated 7 August 2012 was provided. This indicated that three tenders were submitted; from OCB Mechanical their initial figure of £78,101.00 subject to VAT was adjusted due to mathematical errors to £79,351. JCA Engineers £91,278.66 subject to VAT and G and D Higgins £126,115.00 subject to VAT. In respect of the asbestos, the quotations obtained were advised to the lessees in the Notice of Estimates relating to this work dated 20th January 2012.
- (5) The Tribunal has been provided with three replies to the application. The lessee of flat 2 sets out in detail the grounds for opposing the application in his letter dated 1st September 2012. Flats 1 and 14 support the application.

- (6) Under section 20ZA of the Act, the Tribunal may dispense with the consultation requirements, "if satisfied that it is reasonable."
- (7) In our view the purpose of section 20 is to ensure that lessees are properly consulted so that they may have confidence in the decisions that are reached where they will be required to contribute to the costs of the works carried out. The legislation intended that lessees should have the opportunity to participate in a meaningful way in the decision making process. In this case the lessees have been informed about the nature of the intended work and the only detailed response received was from the lessee of flat two. The Tribunal has received copies of the reports detailing the condition of the boiler and calorifier from which it is satisfied that it is reasonable to dispense with the requirements in accordance with section 20ZA. The Tribunal accepts that the works need to be carried out as soon as possible particularly with the pending winter months. In making this decision the Tribunal has taken account of the fact that the servicing of the boiler is only possible by coordinating the asbestos contractors and the heating engineers to attend site the same day and that according to DMG Delta the calorifier should be removed as a matter of urgency. Alternative systems of replacing the existing central system with a new gas fired system within each flat was considered but was found not to be practical for the reasons set out in the WR Associates report. The applicant also invited M & E Engineers to consider the replacement of the defective calorifier only or both calorifiers and this was rejected for the reasons fully set out in the applicants' statement.
- (8) With regards to the application for a determination as to the reasonableness of the costs to be incurred, under section 27A, the Tribunal has jurisdiction to determine "whether, if costs were incurred for services, repairs, maintenance.....of any specified description, a service charge would be payable for the costs. " The applicant appears to be proceeding with the quote of £79,351 from OCB Mechanical and that of £8,420.00 plus VAT from 777 Environmental Ltd in respect of the asbestos. These costs appear on the face of it to be reasonable and from our knowledge and experience do not appear to be out of range with the norm. Although the lessee of flat two has objected and says that the cost of the boiler replacement works are significant exceeding £120,000 and that "such costs represent a potential 100% increase as against those first presented to leaseholders 12 months earlier" he has not substantiated his objections with any independent alternative quotes to support his assertions. In the light of the above and in the absence of any contra evidence, the Tribunal determines that the costs to be incurred would be reasonable if incurred and would therefore be payable by the respondents
- (9) In reaching its decisions the Tribunal is not making any assessments as to the standard of work and the respondents may if they wish subsequently challenge the reasonableness of the standard of work under section 19 of the Act.

Chairman: Evis Samupfonda

A handwritten signature in black ink, consisting of stylized, overlapping loops and a sharp peak, positioned to the right of a horizontal line.

Date: 20 September 2012