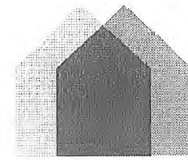




HM Courts
& Tribunals
Service

8519



Residential
Property
TRIBUNAL SERVICE

DECISION OF THE LEASEHOLD VALUATION TRIBUNAL

LANDLORD AND TENANT ACT 1985 – SECTION 20ZA

Ref: LON/00AG/LDC/2012/0134

Property: 43 Eton Avenue, London NW3 3EP

Applicant: 43 Eton Avenue Management Company Ltd

**Applicant's
Representative:** Mr. S. Murgatroyd (43B)

Respondents: T. Kotridis & J Dhiman (Flat 1 (formerly flats 1
and 2)).
S. Segall (Flat 3)
S. M. Day (Flat 4)
M. I. Sodre (Flat 5)
S. Aggarwal (Flat 6)
R. L. Bunker & R. Bunker (Flat 43A)
S. Murgatroyd (Flat 43B)

Date of decision: 7th January 2013

Tribunal: Mr. L Rahman (Barrister)
Mrs H C Bowers MRICS

DECISION

The Tribunal determines that it is reasonable to dispense with the requirements to consult under section 20 of the Landlord and Tenant Act 1985 in respect of the "Urgent Works" (concerning water ingress) and the appointment of a new managing agent.

The Tribunal determines that it is not reasonable to dispense with the consultation requirements concerning the "Major Works".

Introduction

1.) By an application dated 8.11.12, the Applicant seeks a dispensation of all or any of the consultation requirements in section 20 of the Landlord and Tenant Act 1985 (the Act).

2.) There was a paper pre trial review and Directions were issued on 9.11.12. It was directed that this matter could be allocated to the Paper Track, unless either party requested a hearing. There was no request for a hearing and therefore this matter was considered on the basis of the papers submitted to the Tribunal.

3.) There was no inspection of the subject property as it was considered that this matter could be considered on the basis of the papers available to the Tribunal.

Background

4.) The subject property is described as a Victorian detached house converted to 8 self contained flats in 1982. The 2 ground floor flats were merged into one in 2002, therefore there are 7 flats at present.

- 5.) The application describes the qualifying works as follows;
- 6.) Major works concerning external maintenance to the paintwork and windows, restoration of the brickwork and water goods, relaying of forecourt tiles, and making good other external flaws. The anticipated cost is £180,000.
- 7.) Urgent works on the water goods on one of the wall of the property as there is water ingress through the walls of more than 1 flat. The anticipated cost is £10,000 - £15,000. The extent of the works are unknown. More would become apparent once scaffolding has been put up and further investigations are done.
- 8.) The appointment of a new Managing Agent as the existing Treasurer and Chairman, who had been carrying out all the management tasks had resigned on 31.12.12.
- 9.) The application seeks a dispensation for all or any of the consultation requirements.
- 10.) In response to the Tribunals Directions, the leaseholders of 6 of the flats have confirmed that they support the current application. The leaseholders of flat 1 have confirmed they support the application to dispense with the consultation requirements concerning the urgent works and the appointment of a new manager. However, they do not agree with the application to dispense with the consultation requirements concerning the major works "as this is a significant piece of work to the building".

The Law

- 6.) Section 20ZA of the Landlord and Tenant Act 1985 states:

“(1) Where an application is made to a leasehold valuation tribunal for a determination to dispense with all or any of the consultation requirements in relation to any qualifying works or qualifying long term agreements, the tribunal may make the determination if satisfied that it is reasonable to dispense with the requirements.”

Decision

11.) The work concerning the urgent works to the water goods and the appointment of a new manager is of an urgent nature. The water penetration is getting worse and all 7 lessees agree the work is urgent and necessary. Similarly, all 7 lessees agree there is an urgent need for the appointment of a new managing agent given the resignation of the previous management on 31.12.12, which means at present there is no effective management. The need for appointment of a managing agent is obvious given the urgent works that need to be carried out. The Tribunal notes that the dispensation will allow the proposed urgent work and the appointment of new managing agents to progress more efficiently. In these circumstances it would appear to the Tribunal that it would be reasonable to dispense with the full consultation process under section 20 of the Landlord and Tenant Act 1985 in respect of the urgent works and the appointment of new managing agents.

12.) The major works is not of an urgent nature. An email concerning the major works was sent in September 2010. A meeting was eventually held in March 2012. At a meeting in October 2012 it was decided the major works would be postponed until the spring of 2013, “partly due to the burden of the consultation process and the multiple consultation periods”. The Applicant feels the consultation process is far too burdensome given the size and history of the management company. The Applicant also states it is seeking dispensation from the consultation process so that it can focus on the essentials of maintaining the property rather than on statutory compliance. The Tribunal does not find it reasonable to dispense with the consultation process. The consultation process is onerous but essential in giving all those concerned an opportunity to be involved in the decision making process. Unlike the other 2 matters, the Tribunal note the Applicant does not have the

support of flat 1. Given the nature of the proposed works, the non urgent nature of the work, the opposition from flat 1, and the costs involved, the Tribunal does not find it reasonable to dispense with the consultation process.

13.) In making its decision concerning the urgent works and the appointment of new managers, the Tribunal is mindful that this decision should not prevent the leaseholders from making any further application in respect of the question as to whether the cost of the urgent works / managers are reasonably incurred, that the works / management service are to a reasonable standard and any question in respect of the liability to pay service charges in respect of these works / managing agents.

Chairman
L Rahman



7.1.13