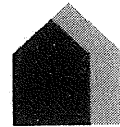




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**LONDON RENT ASSESSMENT PANEL**

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

**Case Reference:** LON/00AX/LDC/2012/0145

**Premises:** 202 Ewell Road, Surbiton, Surrey, KT6 6HL

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**Applicant:** 202 Ewell Road Residents Association Ltd

**Representative:** Snellers Property Management & Lettings

**Respondents:** The 7 leaseholders of the flats in the premises

**Representative:** None.

**Leasehold Valuation  
Tribunal:** Mr L Rahman (Barrister)  
Mr H Geddes JP RIBA MRTPI  
Mr A Ring

**Date of decision:** 21.01.2013

## **Decision of the Tribunal**

- (1) The Tribunal determines it is reasonable to dispense with the relevant consultation requirements.

## **The application**

1. An application has been made under s.20ZA of the Landlord and Tenant Act 1985 ("the 1985 Act") for a determination that all or any of the consultation requirements in relation to works to be undertaken by the Applicant may be dispensed with if the Tribunal was satisfied it was reasonable to dispense with such requirements.
2. The Applicant confirmed it was happy for the application to be dealt with on paper if the Tribunal thought it appropriate. There was a pre trial review on 3.12.12. The Tribunal considered that if none of the Respondents requested an oral hearing then it would be appropriate for the application to be dealt with in this manner (without a hearing). None of the parties requested an oral hearing so the matter was listed to be dealt with on paper.

## **The background**

3. The property which is the subject of this application is a Victorian house which has been converted into 7 flats. The property is managed by Snellers Property Management.
4. The works for which the Applicant sought a dispensation of the consultation requirements were as follows:
  - (i) Repairs to the front porch. To restore the portico including 2 bases, 2 columns, and 2 capitals.
5. The Respondents would each be responsible for the proportion required under the terms of their leases.

## **The Applicant's case**

6. The Applicant states external works to the building, which had properly been consulted upon, had started in October 2012. Whilst the contractors were decorating the porch, they noted many cracks, particularly in the pillars. Further investigations revealed the stone was in such a bad state that the pillars were not structurally sound and needed urgent replacing. Once the weather became frosty, more damage could be caused as the stonework was exposed (photographs of the porch are in tab 2 of the bundle).

7. As the building was in a Conservation Area, the local authority were contacted. Kingston Council stated the repair must be on a like for like basis, otherwise planning permission would be required. The Applicant took the view that seeking planning permission would add to the costs and time, with no guarantee that the planning application would be successful.
8. Various quotes were obtained by the Applicant. The cost was high as it was necessary for a stone mason to copy the complex moulding of the capital. The quotes ranged from £8,400 to £4,700. The best quote was for £3,900 plus vat.
9. The Applicant wrote to all the Respondents on 21.11.12 (a copy of the letter is in tab 6 of the bundle), setting out the reasons for the work, the cost, and the need for dispensation from the consultation requirements. The letter stated the Respondents were welcome to raise any concerns and to give feedback as it was imperative that the Respondents were consulted on the matter. The Applicant states it did not receive any objections from the Respondents.
10. The application to the Tribunal was made on 28.11.12 (received by the Tribunal on 30.11.12). A pre-trial review was held on 3.12.12 and directions were issued to all the Respondents. The Respondents were to write to the Tribunal, by 17.12.12, indicating whether they consented to the application, i.e. agree to dispensation from full consultation or whether they opposed the application (in whole or in part). Only one of the Respondents, Ms A O'Mara, responded. She did not oppose the application. The works to the porch commenced on 15.12.12.

#### **The Respondent's case**

11. The Respondents did not raise any objections in reply to the Applicant's letter dated 21.11.12, inviting the Respondents to raise any concerns they had.
12. One of the Respondents, Ms A O'Mara (flat 7) sent a letter supporting the application and the Tribunal received no objections from any of the other Respondents.

#### **The Tribunal's decision**

13. The Tribunal can only make a determination to dispense with the consultation procedure if it is satisfied that it is reasonable to do so. The purpose of the procedure under s.20 of the 1985 Act is to ensure that the long leaseholders do not suffer any prejudice when they are asked to pay for works that cost in excess of £250 per flat. The legislation recognises that there may be instances of urgency where the lengthy consultation process, designed to give the long leaseholders full information about the works and to enable them to make comments and propose a contractor to be asked to provide a quote, cannot be followed and that is the reason for the dispensation provisions under s.20ZA of the 1985 Act.

14. This is an unopposed application. The Applicant had some informal consultation with the Respondents. The Tribunal find the work was of an urgent nature. The photographs showed significant disrepair. Given the stonework had been exposed, delaying the work could have possibly caused further significant damage and increase the overall cost in the long run. Given that contractors were already there, it was practical to have the necessary works done without delay.
15. For the reasons given, the Tribunal is satisfied it is reasonable to dispense with the relevant consultation requirements contained in s.20 of the 1984 Act.
16. The dispensation of any or all of the requirements of s.20 of the 1985 Act does not indicate that the cost itself is reasonable or that the work is of a reasonable standard. The Respondents may, if they wish, make a subsequent application under s.27A of the 1985 Act, challenging either the need or quality of such works, the recoverability of the cost under the lease, or the level of the cost.

**Application under s.20C and refund of fees**

17. The Applicant did not make any application under Regulation 9 of the Leasehold Valuation Tribunals (Procedure) (England) Regulations 2003 for a refund of the fees that had been paid in respect of the application. The Respondents did not make any application for an order under section 20C of the 1985. Accordingly, no orders are made.

Chairman: L Rahman



Date: 21.01.13