

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

**Case Reference:** LON/00BG/LDC/2012/0128

**Premises:** Wilton Court, Cavell Street, London E1 2BN

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**Applicant:** Wilton Court Freehold Company (Lessor)

**Respondents:** The Lessees of the 21 Flats at Wilton Court as set out in the application (Lessees)

**Date of Determination:** 10 January 2013

**Leasehold Valuation  
Tribunal:** Mr J P Donegan - Chair  
Ms S Coughlin- Professional Member  
Mrs R Turner JP – Lay Member

**Date of Decision:** 23 January 2013

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

**1. Introduction**

This document records the Tribunal's decision. The Tribunal refuses the application under Section 20ZA of the Landlord and Tenant Act 1985 ("the 1985 Act").

**2. Background**

(a) The property which is the subject of this application is Wilton Court, Cavell Street, London E1 2BN ("the Premises"), which contains 21 leasehold flats. The Applicant is the freeholder of the Premises.

(b) The Respondents are the lessees of the 21 flats at the Premises and each hold a long lease of their respective flats. The leases require the Applicant to provide services and the Applicants are to contribute towards the cost of these services by way of a variable service charge.

(c) On 30 October 2012 the Tribunal received an application under S20ZA of the 1985 Act for a determination to dispense with all or any of the consultation requirements in relation to qualifying works.

(d) Directions were issued on 02 November 2012 and further Directions were issued on 17 December 2012. The Directions and further Directions were copied to each of the Respondents.

(e) Two of the Respondents, Mr Darren Ward (Flat 9) and Mr Russell Wheatley (Flat 21) have written to the Tribunal stating that they support the application. There has been no response to the application from the remaining Respondents. The matter has been determined on the papers; no party having requested an oral hearing.

### **3. The Grounds for the Application**

The Applicant proposes to carry out the following qualifying works to the Premises:

Complete main flat roof recovering over the top second floor storey and associated repairs.

All works shall be on a supply and fit basis.

The Applicant has complied with the following relevant requirements of the Service Charges (Consultation Requirements) (England) Regulations 2003 (“the Regulations”):

Notice of Intention was issued to the Respondents on 01 June 2012 and a specification of works was produced by Rowe Associates in August 2012. Tenders for the works were obtained in late September 2012.

### **4. Evidence**

The Applicant relies on:

1. A statement from Ms Jean Brooker, a Senior Property Manager for Countrywide Managing Agents, dated 06 December 2012;
2. A supplemental statement from Ms Brooker, dated 19 December 2012;
3. A sample lease for Flat 20 and Garage 20 at the Premises;
4. The specification of works and tenders; and
5. Photographs of the roof.

In her first statement, Ms Brooker explained that the Managing Agents wrote to all of the Respondents on 01 June 2009, advising them of the need to replace the complete roof covering by the year end 2014. Contributions towards the cost of the works have been collected since that time (presumably by way of a reserve fund). The condition of the roof has deteriorated over the last couple of years and this means that the work cannot wait until 2014. At least 3 flats have suffered from water damage. Notice of Intention was issued to the Respondents on 01 June 2012 but there was a delay in agreeing the final specification of works and obtaining the tenders. Although the Agents have not been advised of any current water penetration, they wish to proceed with the works at the earliest possible date, given the risk of further leaks and damage to the top floor flats.

In her second statement, Ms Brooker records

*“..We are now in the process of sending out the 2<sup>nd</sup> Part of the Section 20 Notice however if we have to continue with this process we are not going to be in a position to agree a start date until the beginning of March 2012. This would delay a start dated quite possibly until May..”.*

She repeated that the roof was not leaking but warned that the situation could change with the onset of harsh winter weather. Ms Brooker hopes that the works can commence in March (2013).

## 5. The Law

**Section 20(1)** of the Act provides that, where the section applies to any qualifying works or qualifying long term agreement, the relevant contributions of tenants are limited in accordance with subsection (6) or (7) (or both) unless the consultation requirements have been either –

- (a) complied with in relation to the works or agreement, or
- (b) dispensed with in relation to the works or agreement by (or on appeal from) a leasehold valuation tribunal.

**Section 20ZA(1)** of the Act provides that, 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 agreement, the tribunal may make the determination if satisfied that it is reasonable to dispense with the requirements.

**Section 20ZA(2)** defines “qualifying works” as “works on a building or any other premises” and “qualifying long term agreement” as (subject to subsection (3)) an agreement entered into, by or on behalf of the landlord or a superior landlord, for a term of more than twelve months.

**Section 20(3)** of the Act provides that section 20 applies to qualifying works if relevant costs incurred on carrying out the works exceed an appropriate amount, defined by regulation 6 of the Regulations, as an amount which results in the relevant contribution of any tenant being more than £250.

**Part 2 of Schedule 4** to the Regulations contains the consultation requirements for qualifying works for which public notice is not required.

**S20ZA** does not require a Tribunal to make any determination on the costs of the works or the proposed agreement.

**6. The Tribunal's Decision**

The Tribunal is not satisfied that it is reasonable to dispense with the consultation requirements in relation to the works and refuses the application under S20ZA.

**Reasons** – The Applicant has been aware that the roof covering needs to be replaced since 01 June 2009, at the latest. This is not a case where the need for urgent works has only just been discovered. The specification was obtained in August 2012 and tenders were obtained in September 2012. The Applicant could have served the second stage consultation notices in October 2012, which would have avoided the need for the S20ZA application. It appears that they have now served (or are serving) these notices, meaning that the contractors can be appointed very shortly. There is no evidence of current leaks into the top floor flats that would justify the immediate commencement of the works and dispensation. It is apparent from Ms Brooker's second statement that the works will not start until early March at the earliest. Given that the second notice was in the process of being sent out in December 2012, compliance with the full consultation requirements in the Regulations should not significantly delay the commencement of the works. Having regard to the nature and scope of the works, it would be unwise to commence the works until the spring in any event. This is not a case where it is reasonable to dispense with the consultation requirements.

CHAIRMAN.....

DATE.....

