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MAN/00CJ/LDC/2013/0002

HM COURTS & TRIBUNAL SERVICE

RESIDENTIAL PROPERTY TRIBUNAL SERVICE

NORTHERN RENT ASSESSMENT PANEL

LANDLORD AND TENANT ACT 1985 – SECTION 20ZA

**DECISION ON AN APPLICATION UNDER SECTION 20ZA of the LANDLORD
AND TENANT ACT 1985**

Property	Apartments 1 – 18 Central Exchange Buildings, 93a Grey Street, Newcastle upon Tyne NE1 6EG
Applicant	Trinity (Estates) Property Management Limited
Respondents	Leaseholders of the Apartments at the Property (see Appendix 1)
Date of Application	15 February 2013
Date of Determination	23 May 2013
The Tribunal	Mr W.L. Brown LL.B Mr I.R. Harris FRICS

Determination

The consultation requirements specified in Section 20 of the Act and by Part 2 of Schedule 4 of the Service Charges (Consultation Requirements) (England) Regulations 2001 (SI 2003/1987) are dispensed with in respect of replacement of the fire alarm system as referred to in paragraph 1.

Background

1. An application was made by the Applicant for dispensation from the consultation requirements imposed by Section 20 of the Landlord and Tenant Act 1985 ("the Act") with regard to replacement of the fire alarm system serving the Property and residential communal areas ("the Works").
2. The Applicant was appointed as the managing agent for the Property by an Agreement dated 1st February 2003 made between Central Exchange Building Newcastle Management Limited (1) and the Applicant (2). Central Exchange Building Newcastle Management Limited is the Resident Management Company of the Property.

3. Directions dated 4 April 2013 were sent to the parties indicating that the Leasehold Valuation Tribunal ("the Tribunal") considered that the matter could be resolved without an oral hearing unless such hearing was requested by a party. No such request was made and the Tribunal convened on 23 May 2013 in Newcastle upon Tyne to determine the Application.
4. As managing agent the Applicant is responsible for providing all of the services covenants to be provided by the Landlord under the apartment leases which includes maintenance, repair, cleaning, lighting and decorating of the common parts and buildings insurance of the Property.
5. The Property is located in a building within the retail and commercial area of central Newcastle upon Tyne. The building comprises a development of mixed use – residential, retail and office. The residential areas occupy the second and third floors. The building is Grade II listed. There are 17 residential units (but no apartment numbered 13).
6. An external and internal inspection of the Property had been undertaken by the Tribunal members on the morning of 20 November 2012 in respect of previous proceedings (MAN/00CJ/LDC/2012/0015) although not with specific reference to the Works.

Evidence and Submissions

7. A fire audit by Tyne and Wear Fire and Rescue Service on 14 February 2013 of the Property identified a failure of compliance with the provisions of the Regulatory Reform (Fire Safety) Order 2005 in that the fire detector heads were faulty, directing the fire brigade to the wrong apartment.
8. The fire alarm system is 10 years old and the detector heads are obsolete.
9. Estimates from various contractors showed that the approximate cost of the Works is in the region of £12,000. The Applicant proposes to commence the Works as soon as practically possible to ensure the fire alarm system is functioning properly.
10. The Works are sufficiently urgent to warrant dispensation with the formal consultation requirements of Section 20 Landlord and Tenant Act 1985.
11. A copy of a sample lease of an apartment in the Property was submitted. The obligation upon the Landlord to repair is stated in the 5th Schedule.
12. Each of the leaseholders was made aware of the fault with the fire alarm system as contact was made to ensure access to the apartments to enable contractors to carry out their surveys. Leaseholders were written to by the Applicant and given the opportunity to acknowledge that they wanted the Works to be undertaken and to accept that they would not be prejudiced if

consultation did not take place. Seven of the Respondents have sent back such confirmation. None have expressed any objection.

13. There were no representations from any Respondent all of whom had been sent copies of the Application by the Tribunal and invited to comment.

The Law

14. Section 20 of the Act states:

“Limitation of service charges: consultation requirements

(1) Where this 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.

The relevant contribution is limited to £250.00.

Section 20ZA states:

“Consultation requirements: supplementary

(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 agreement, the tribunal may make the determination if satisfied that it is reasonable to dispense with the requirements.

(2) In section 20 and this section—

“qualifying works” means works on a building or any other premises

.....”

Tribunal’s Decision

15. The Tribunal was satisfied that the cost for each apartment of the Works would exceed the sum of £250.00 per flat. The Tribunal accepted that there

was a need for compliance with consultation requirements set out in Section 20 of the Act.

16. It was not explained to the Tribunal whether the Works had commenced or been completed but the Tribunal is persuaded by the Applicant's case that there is urgency for the Works to be undertaken as a failure to complete them timely poses a safety risk.
17. The absence of representations from the Respondents indicates that there is no significant opposition to the Application.
18. Having considered the submissions, the Tribunal is satisfied, in accordance with Section 20ZA of the Act, that it is reasonable to dispense with the consultation requirements specified in Section 20 of the Act and by Part 2 of Schedule 4 of the Service Charges (Consultation Requirements) (England) Regulations 2001 (SI 2003/1987).
19. The Tribunal so determines.
20. This decision does not concern the issue of whether any service charge costs resulting from any such works will be reasonable or indeed payable. It will be open to the lessees to challenge any such cost charged by the Applicant.

W.L. Brown

Date: 23 May 2013

Chairman of the Leasehold Valuation Tribunal

Annex

Mr J. Gibson	Flat 1	Central Exchange Building
Mr P & Mrs DJ Wright & Mrs A D Wright	Flat 2	Central Exchange Building
Miss S. J. Wright	Flat 3	Central Exchange Building
Miss M. Nelson	Flats 4	Central Exchange Building
Mr J W Thompson	Flat 5	Central Exchange Building
Miss M. Nelson	Flat 6	Central Exchange Building
Mrs F. Richardson	Flat 7	Central Exchange Building
Mr & Mrs Calvert	Flat 8	Central Exchange Building
Mr S. Asprey	Flat 9	Central Exchange Building
Mr & Mrs Stobbs	Flat 10	Central Exchange Building
Dr P. Nichols	Flat 11	Central Exchange Building
Mr & Mrs Thompson	Flat 12	Central Exchange Building
Mrs Susan Waters	Flat 14	Central Exchange Building
Mr B Donaghey & Mr P. Williams	Flat 15	Central Exchange Building
Mrs F. Richardson	Flat 16	Central Exchange Building
Mrs F. Richardson	Flat 17	Central Exchange Building
Mr & Mrs Shorthouse	Flat 18	Central Exchange Building