

2168

LON/00BH/LDC/2006/0021

DECISION OF THE LEASEHOLD VALUATION TRIBUNAL ON APPLICATIONS

UNDER SECTIONS 20ZA OF THE LANDLORD & TENANT ACT 1985

(AS AMENDED)

Applicant: Circle 33 Lifespace

Respondents: Mr. J A Hodges & Mrs. N M Hodges

Re: 214-216 Brettenham Road, Waltham Forest, London E17 5AY

Hearing dates: 15th May 2006

Appearances: For the Applicant: Non appearance

For the Respondent: Mr. J A Hodges

Mrs. N M Hodges

Members of the Residential Property Tribunal Service:

Mr. G F Bowden TD MA FRICS

Mrs. J McGrandle BSc (EstMan) MRICS MRTPI

214-216 BRETtenham ROAD, WALTHAM FOREST, LONDON, E17

Background

1. This was an Application pursuant to Sections 20ZA and 20C of the Landlord and Tenant Act 1985 (hereinafter called "the Act") ; by the Landlord, Circle 33 Housing Trust, for dispensation with consultation requirements in respect of qualifying works.
2. The Respondents, Mr Julian Hodges and Mrs N Hodges, were long lessees of the Maisonette 214, Brettenham Road, under a lease dated 9 September 1994 which was assigned to the Respondents in 1999. The subject premises, 214-216 Brettenham Road, a two-storey terraced-property, comprised two maisonettes on the ground floor No 214, and on the floor above No 216. Each had its own separate front door. There was a garden door at the side, with access over a shared area, to the designated separate gardens of each maisonette at the rear.
3. The Landlord of the subject property had until 2002 been the Warner Estate Ltd, when Circle 33 Housing Trust had taken over the responsibilities of ground landlord.
4. The Respondents' lease provides that they are responsible for a half share of the cost of qualifying works to the subject property.
5. The Applicants, in seeking dispensation under Section 20ZA with all or any of the consultation requirements contained in Section 20 of the Act, set out their reasons in the following terms:-

- i. *Replacement of the asphalt roof that serves 214-216 Brettenham Road.
Hack up existing asphalt roof covering and cart away
Remove and set aside plain tiles from main roof and refix after work has been done. Supply and lay asphalt work to start in one week.*

- ii. *Letter was sent to leaseholders on 17 March 2006 advising of the emergency work required. It also advised that we would be applying to the LVT under Section 20ZA in order to dispense with the consultation requirements. The estimated cost of the work was stated and a copy of the 2 quotations we obtained was enclosed. Details of the person to contact if they had any queries was also included.*

- iii. *The roof is leaking into Flat 216 causing severe dampness to the walls. The roof has been repaired on numerous occasions since 2003 and cannot take any more repairs. Renewal is now needed. A full consultation would take at least 2 months. A delay of this length would be unacceptable to the tenant who lives in Flat 216 because of the dampness and inconvenience suffered when it rains.*

Hearing

6. The case was in the first instance listed for a "paper hearing", that is to say with the parties submitting written representations upon which the Tribunal would make its decision.

7. The Respondents however requested that there should be an oral hearing at which they could attend and present their case.
8. An oral hearing was therefore scheduled for 10am Monday, 15 May 2006 at 10 Alfred Place. The Applicants were informed of this arrangement by letter dated 21 April 2006.
9. The Tribunal convened at the appointed time on the appointed day, with the Respondents, Mr and Mrs Hodges, in attendance. The Applicants were neither present nor represented.
10. The Respondents presented their evidence and answered a number of questions from the Tribunal.
11. The Respondents amplified the points set out in their letter to the Tribunal dated 8 April, which indicated that the roof in question was known to be defective from the time the Respondents took on the lease in 1999. Failure by both previous and present landlords to respond to reports had resulted in further deterioration.
12. Had the present landlords responded promptly, there would have been time enough to follow the proper statutory consultation procedures and considered not only the area in question but other aspects of both the main roof of the main structure of the terrace, as well as the back addition in question, and also the further roof area above the back bay of the ground floor maisonette.
13. The Respondents were aggrieved that they were not given the opportunity to submit their observations and obtain their own estimate. Mr Hodges, himself

a builder, could have made a useful professional input in considering the scope and apportioned cost of £2,655.50

The Proposed Works

14. It was stated in the Applicants' reasons quoted above "The roof has been repaired on numerous occasions since 2003, and cannot take any more repairs". However, the only occasion which the Applicants could instance since that date was set out in their letter of 28 April 2006 relating to an invoice for:-

		£
Roof:	Sealing compared to cracks	7.25
Roof:	Sweep/apply WP compound	36.24
Inspection:	Provide/Erect ladder	13.84

15. Mr Hodges stated that on 26 April 2006 a contractor arrived at the subject premises and erected a tower scaffold to the back addition. Contractors were on site working on the roof for the whole of the day of 26 April, and until about 1pm on 27 April. In total some 1½ days. The scaffold tower remained in place for about a further week.
16. The Respondents had not been told that this work was to take place nor indeed given any indication as to the scope of the works, other than the letter from the Applicants (copied to the LVT) of 7 April which set out "Specification of Works, in vague, imprecise and uncosted terms. Two estimates for the block cost were quoted from Hadden Crespo Services Ltd, the landlord's agents, for £6,131.21 and £5,311.00, the lower of which was accepted.

17. The Notice of Intention did in fact invite observations in writing within 30 days.
18. However, the works in question were, Mr Hodges stated, commenced on 26 April and completed on 27 April.
19. The Applicants in their letter from Ms Elain Dieding to Mr and Mrs Hodges on 28 April stated that the cost of the works were as quoted £2,655.50 and set out the options for the Respondents to pay their alleged share of this sum.

Decision

20. The Tribunal carefully considered the evidence before them, the written representations of the Applicants i.e. letters to both the Respondents and the LVT, the written representations of the Respondents, their oral evidence at the Hearing, and their answers to questions from Members of the Tribunal.
21. On the evidence before them, the Tribunal decided that there had been, over a long period of time, notice given to the Applicants that the roof was in need of attention. There had been ample opportunity to produce a proper specification, which could have been itemised and costed.
22. The Applicants had sought to invoke the provisions of the Act to dispense with the statutory consultation procedure, and deprive the Respondents of the opportunity to consider the scope of the works, what might be a reasonable cost, and the opportunity to obtain further estimates.
23. In the light of the circumstances, the Tribunal refused leave to dispense with all or any of the consultation requirements under Section 20ZA of the Act.

24. They further determine that under Regulation 6 of the Landlord and Tenant, England: Service Charges (Consultation Requirements) (England) Regulation 2003, the appropriate amount payable by the Respondents, in respect of the qualifying works in question, is £250 (two hundred and fifty pounds).

Signed: Cecilia Bowden

Date: 20 May 2006

JG