

LEASEHOLD VALUATION TRIBUNAL
OF THE
NORTHERN RENT ASSESSMENT COMMITTEE

DECISION OF THE LEASEHOLD VALUATION TRIBUNAL

LANDLORD AND TENANT ACT 1985
SECTION 20ZA

Property: Flats Nos. 1 – 20 Easter Wynd, Berwick-upon-Tweed
TD15 1DT

Applicant: Nomad Homes

Respondents: Mrs N Bell (Flat 1), Mr L Dudgeon & Ms R Walker (2),
Mr J P Currie (3), Ms E Doggett (4), Mr Wood (5),
Mrs J Tait (6), Mr & Mrs T W Ottey (7), Mrs B Peaston
(8), Mr D G Landells (9), Mr J R Collins (10),
Mr D F Lane (11), Mrs L T Clarke (12), Mr A Watts (13),
Ms H N Smith (14), Mrs J Burn (15), Mr & Mrs B Abbott
(16), Mr R Coote (17), Mrs F Moore (18), Ms L Watson
(19), Mr A Godsell (20)

Tribunal: Mr L Bennett (Chairman)
Mrs E Thornton-Firkin

DECISION of the TRIBUNAL

The Tribunal grants dispensation from the consultation requirements of Section 20 of the Landlord and Tenant Act 1985 with regard to the works of gutter cleaning via scaffolding (or other method) and bird deterrent systems to flats 1 – 20 Easter Wynd

Application and Preliminary

1. The Applicant, Nomad Homes, applied to the Tribunal on 6 September 2006 having written to the respondents asking them for their approval for dispensation from "consultation in respect of gutter works". This letter was not before the Tribunal. Fifteen of the twenty lessees responded giving approval to the application.
2. The Tribunal responded to the application giving directions that it would deal with the application on paper on 6 October 2006 unless any party asked for a hearing before that date.
3. The Directions were sent to each Lessee, none of whom requested a hearing or made written submissions.

Law

4. The relevant law is to be found in the Landlord and Tenant Act 1985. Section 18 of the Act defines "service charge" and "relevant costs".
5. Section 19 of the Act limits the amount payable by the lessees to the extent that the charges are reasonably incurred.
6. Section 20 of the Act reads as follows:-

"Limitation of service charges : consultation requirements

Where this section applies to any qualifying works.....the relevant contributions of tenants are limited.....unless the consultation requirements have either:-

- a. *complied with in relation to the works or*
- b. *dispensed with in relation to the works by.....a leasehold valuation tribunal*

This section applies to qualifying works if relevant costs incurred on carrying out the works exceed an appropriate amount"

7. "The appropriate amount" is defined by regulation 6 of The Service Charges (Consultation Requirements) (England) Regulations 2003 as "*.....an amount which results in the relevant contribution of any tenant being more than £250.00*".

Submissions

8. The Applicant submitted in letters that the gutters of the property overspill in wet weather and that at present three flats are being affected by the ingress of water and that further flats could be affected. If the lessor undertook consultation in line with section 20 requirements, it would be unable to commence works until late November or December 2006.

9. The Applicant had received a number of quotations for the works required and was investigating other methods of cleaning the gutters other than via scaffolding. It was also seeking quotations for the installation of a bird deterrent system to reduce the future frequency of gutter cleaning.
10. The Applicant's circulated the result of approaches to contractors with costings to the Lessee's by letter dated 29 September 2006. That letter invited comments and discussion and gave contact details.

Decision

11. The Tribunal considered that the Applicant was acting properly in applying for a dispensation considering the ingress of water and the urgency to deal with the gutter cleaning before winter. The Applicant was obtaining quotations for all the works proposed and for these reasons the Tribunal granted dispensation from the consultation requirements of section 20.

Order

The Applicant is dispensed from the consultation requirements relating to guttering work proposed at the Property.



Mr L Bennett
Chairman
9 October 2006