

**SOUTHERN RENT ASSESSMENT PANEL AND LEASEHOLD VALUATION TRIBUNAL**

**Case No: CHI/00MR/LDC/2008/0033**

**BETWEEN:**

**RLP PROPERTY PARTNERSHIP**

**Applicant**

**- and -**

**MR & MRS BROWN  
MR FAGELMAN**

**Respondents**

PREMISES: 129 London Road  
North End  
Portsmouth  
PO2 9AA ("the Premises")

TRIBUNAL: Mr D Agnew LLB, LLM (Chairman)  
Mr D L Edge FRICS

HEARING: 19<sup>th</sup> December 2008

**Determination and Reasons**

1. **Background**

- 1.1 On 9<sup>th</sup> December 2008 Mr Peter Chandler as agent for the Applicant applied to the Tribunal for a determination under Section 27ZA of the Landlord & Tenant Act 1985 ("the Act") that the consultation provisions set out in Section 20 of the Act be dispensed with.
- 1.2 During the course of outside decoration of the Premises involving the replacement of wooden fascias and soffits with upvc, the builders had discovered loose brickwork on five elevations of the building near to the top of the walls. A quotation for the cost of the necessary works of repair was obtained from L J Sandalls at £2,300 plus VAT. To this had to be added the surveyor's costs of preparing the tender, supervision and making an application to the Tribunal. The total cost would be approximately £3,250 plus VAT.

- 1.3 By clause 1(2) of the lease of the flats at the premises each lessee is liable to pay one-third of the landlord's costs of repair. This means that each residential lessee would be liable to pay a contribution of over £500 towards the repair costs. In normal circumstances this would require the landlord to undergo the consultation requirements set out in Section 20 of the Act and in the Service Charges (Consultation Requirements) (England) Regulations 2003.
- 1.4 As there is the potential risk of injury being caused by the loose brickwork and as it would be cheaper to carry out the repair whilst the scaffolding is in situ for the external decoration work, the Landlord's agent made this application to the Tribunal.

## 2. Inspection

- 2.1 The Tribunal inspected the premises prior to the hearing on 19<sup>th</sup> December 2008. It comprises an end of terrace three storey building of brick under a tiled roof. There is an insurance office on the ground floor and two flats, one on the first and one on the second floor.
- 2.2 The Tribunal noted that there were areas on each of five elevations where brickwork was loose towards the top of the building. It was possible to rotate one cornerstone and in places whole sections of brickwork could be moved.
- 2.3 The premises front onto a busy main road in one of Portsmouth's main shopping areas. The part of the building affected by the loose brickwork is set back a little from the pavement at the front and from a side pedestrian walkway through from the main road to the road behind but nevertheless the Tribunal could see that there was some risk of injury to passers by if the brickwork should become dislodged.

## 3. The Law

- 3.1 By Section 20ZA of the Act it is provided that a leasehold valuation tribunal may make a determination to dispense with consultation requirements in relation to any qualifying works "if satisfied that it is reasonable" so to do.

4. The hearing

4.1 Mr Chandler appeared on behalf of the Applicant at the hearing which took place at The Tribunal Office in Chichester on 19<sup>th</sup> December 2008. There was no appearance from either of the residential lessees of the Premises.

4.2 Mr Chandler explained that he had written to the residential lessees and the commercial tenant in similar terms notifying them of the works that had been discovered to be necessary, informing them of the cost of repair and that an application would be made to the Tribunal to dispense with the consultation requirements. No representations had been received by Mr Chandler from any of the lessees.

5. Determination

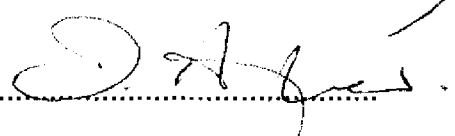
5.1 The Tribunal had no hesitation in finding that it was reasonable to dispense with the consultation requirements in this instance.

5.2 There was some risk of injury to the public should the loose brickwork fall to the ground and the Tribunal found that it would be sensible and less costly to the lessees for the work to be done straight away without having to wait for the consultation period to have elapsed before putting the work in hand.

5.3 The Tribunal also took into account the fact that had the lessees objected to the consultation procedures being dispensed with they had ample opportunity to let their views be known either by responding to Mr Chandler's letter or by attending the Tribunal hearing, but they had not done either.

5.4 The dispensation sought would therefore be granted.

Dated this 13<sup>th</sup> day of January 2009

  
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D. Agnew BA, LLB, LLM  
(Chairman)