



**Residential
Property**
TRIBUNAL SERVICE

**SOUTHERN RENT ASSESSMENT PANEL
LEASEHOLD VALUATION TRIBUNAL**

Case Reference: CHI/21UD/LDC/2009/0005

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

**Premises: The Alexandra, 32 Eversfield Place, St Leonards on Sea TN37
6QP**

Applicants: Braear Developments Ltd

Respondent: Mrs E Costello and others

Appearances for Applicant: Mr D Earwaker Director

Appearances for Respondent: Mr M Dobed, Mrs E Costello , Leaseholders

Date of Hearing: 9 March 2009

Date of Decision:13 March 2009...

Leasehold Valuation Tribunal:

**Mrs F J Silverman LLM
Mr N I Robinson FRICS
Mr R A Wilkey FRICS FICPD**

DECISION

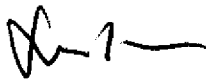
The Applicant's application under s 20ZA Landlord and Tenant Act 1985 is refused.

REASONS

- 1 By an application dated 20 February 2009 the Applicant asked the Tribunal for an order allowing the dispensation of the consultation procedures under s 20 Landlord and Tenant Act 1985 as amended.
- 2 The hearing of the application took place in St Leonards on Sea on 9 March 2009 . At the hearing the Applicant was represented by Mr D Earwaker, a Director of the Applicant company and we also heard evidence from Mr M Atkinson MRICS, the Applicant's surveyor. Mr Dohed and Mrs Costello, leaseholders, attended the hearing and spoke on their own behalf.
- 3 The Tribunal inspected the property on 9 March 2009.
- 4 The property comprises a number of conjoined late Victorian terrace houses on the front and facing the sea. Formerly used as an hotel the property had been converted into and is now used as 40 self contained flats.
- 5 The exterior and common parts of the building were in fair condition and the problem which was the subject of the application , namely damage to the roof , was not apparent from ground level inspection.
- 6 The Tribunal inspected the interior of Flat 24, a penthouse apartment set within a mansard roof, where water penetration damage was evident in the living room and, to a lesser extent, in the kitchen. From the balcony it was also possible to see that the top row of roof tiles was missing and that others were likely to slip. From a distance the roof covering has the appearance of concrete interlocking roof tiles but is in fact constructed of lightweight galvanised steel panels which have the appearance of traditional tiles . Each panel is the equivalent of a row of several tiles and is fixed to the roof structure using nails. Mr Atkinson drew the Tribunal's attention to the poor state of the nail fixings of the panels by the balcony.
- 7 At the hearing Mr Earwaker and Mr Atkinson explained that there had been a history of problems with this part of the roof of the building and that temporary repairs had been carried out but had not endured. Other areas of the roof had also needed repairs which had been carried out. It was now proposed to undertake a major re-roofing of the southern aspect of the building (facing the sea) but in the interim it was intended to renew the section of roof over Flat 24 where water continued to penetrate. At the time of the hearing Flat 24 was the only flat experiencing problems. Although Mr Earwaker had been told on the morning of the hearing that the roof of Flat 21 was also leaking he had not had time to verify this. Section 20 notices had already been served on all the leaseholders in relation to the complete re-roofing and the first stage of the consultation process was coming to an end. If that consultation

process ran its course it was anticipated that the repairs could be effected in the early summer of this year.

- 8 Mr Atkinson, following an inspection in November 2008, had reported that the metal roof tiles were coming to the end of their useful life and were rusting on the underside. A copy of Mr Atkinson's letter dated 25 November 2008 which advised the renewal of the entire roof of the property (other than the areas which had already been replaced) was included in the Tribunal bundle. As well as describing the corroded state of the tiles and fixings, and the poor condition of the felt, Mr Atkinson's final sentence concluded that 'further leaks could occur at any time'. Mr Earwaker had decided not to initiate a repair/renewal programme at that time in the hope that the roof would last a little longer and that the tenants would thus be spared an expensive service charge bill.
- 9 Although neither Mr Dohed nor Mrs Costello had objections in principle to the proposed application they both expressed reservations about the cost to the tenants, particularly in view of the fact that the Landlord proposed to follow the works to the roof over Flat 24 with a larger repair/renewal programme of the remainder of the south face of the roof.
- 10 Having inspected the building, and having considered carefully the representations made by the parties present at the hearing, the Tribunal concluded that the repairs proposed under the present application were not of sufficient seriousness or urgency to merit the dispensation of the s20 procedures which in any event had already commenced. The problem with the roof had been known to the Landlord since at least November 2008 and if action had been taken at that time to commence the s20 consultation the repairs which were now necessary could already have commenced.
- 11 The Tribunal understands the reasons put forward by the Landlord for not having commenced the consultation for the roof renewal at that stage but does not consider this to be a sufficient reason for dispensing with that procedure now.
- 12 We are also conscious that our decision to refuse the application will cause additional inconvenience to the leaseholder of the flat affected but consider that this could be alleviated by a temporary repair to that part of the roof pending the outcome of the ongoing consultation process. Such repair could probably be done within the costs restraints which invoke the consultation procedures.
- 13 The Tribunal concludes that in all the circumstances it is not reasonable in this case to grant a dispensation from the consultation procedures under s20 Landlord and Tenant Act 1985, the Landlord's application under s20ZA is therefore refused.



Frances Silverman
Chairman
13 March 2009