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Residential
Property
TRIBUNAL SERVICE

**LEASEHOLD VALUATION TRIBUNAL for the
LONDON RENT ASSESSMENT PANEL**

DETERMINATION BY THE LEASEHOLD VALUATION TRIBUNAL

**APPLICATION UNDER S20ZA OF THE LANDLORD
AND TENANT ACT 1985, as amended**

REF: LON/00BG/LDC/2010/0024

Address: Trinity Hall
6 Durward Street
London
E1 5BA

Applicant: Ballymore Properties Limited

Respondents: The lessees of Trinity Hall, 6 Durward Street, London
E1 5BA

Tribunal: Mrs J S L Goulden JP
Mr I B Holdsworth MSc FRICS

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1. The Applicant, who is the landlord of Trinity Hall, 6 Durward Street, London E1 5BA ("the property") which comprises 18 flats, has applied to the Tribunal through its managing agents, Hallmark Property Management Limited, by an application dated 17 February 2010, and received by the Tribunal on 18 February 2010, for dispensation of all or

any of the consultation requirements contained in S.20 of the Landlord and Tenant Act 1985, as amended ("the Act").

2. The Applicant requested a paper determination. However by Directions of the Tribunal dated 26 February 2010 it was stated. *"Although the Applicant requests that the application be determined on the papers Regulation 13 of the Leasehold Valuation Tribunals (Procedure) (England) Regulations 2003 provides that 28 days notice must be given of the Tribunal's intention to proceed without an oral hearing."*
3. Accordingly in accordance with Directions issued by the Tribunal on 26 February 2010 this matter was dealt with by way of an oral hearing held on 10 March 2010.
4. The Applicant was represented at the hearing by Ms C Sharp of Hallmark Property Management Limited. There were no appearances for or on behalf of any of the Respondents.
5. In the application, dispensation was sought on the basis that *"The majority of the apartments are receiving little or no water, therefore, we class this matter as very urgent, in order for the water booster pumps to be installed to ensure all apartments received water."*

The application also stated.

"The works to be carried out are for the installation of water booster pumps at Trinity Hall, to enable the top floor apartment's water on a regular basis. An inspection took place by Hallmark to view the water and there was none serving the apartments.

Consultants have regularly attended to issue a specification and will install the pumps, as soon as authority has been provided.

The first consultation was sent on 18 January 2010. Water pressure testing has been carried out to the majority of apartments (week commencing 8 February).

A follow-up letter was sent 28 January – requesting all objections or agreements to be sent to Hallmark.

We seek dispensation to allow the consultation period to be non-existent in this case, to ensure all properties have water to each apartment. This is a Health and Safety issue, and we therefore look to you to approve this matter”.

6. Ms Sharp said that she had only joined the Respondent's managing agents in December 2009 but understood that the problem was in existence approximately two years earlier. However she said that the severity of the problem had increased over the last six months. She accepted that water was available to the flats but only on an intermittent basis, and was particularly problematic (in respect of reduced pressure) to the top floor flats at weekends, when there was peak demand.
7. In the Applicant's bundle there was a fee proposal dated January 2010 from Service Management Limited which set out the way forward for identifying and rectifying the water supply problems at the property.
8. Consultants were then instructed to carry out pressure and supply testing in January 2010. Ms Sharp produced a design and specification report dated February 2010 prepared by the Consultants, Troup Bywaters & Anders.
9. Two tenders were obtained for carrying out the works. Ms Sharp said the total costs including fees and VAT would be in the order of £42,000.
10. As to S.20 consultation, Notices of Intention were sent to all the lessees on 18 January 2010. This Notice expired on 17 February 2010.

11. The second consultation Notice was sent to all the lessees on 25 February 2010 and this is due to expire on 29 March 2010.
12. Of the 18 lessees, 15 have replied, 14 replies were supportive and 1 reply expressed concern about increased pressure which could lead to greater vibration of the pipes.

The Respondents' case

13. No representations were received by the Tribunal from any of the Respondents save for a letter and e-mail from the lessees of flats 15 and 16 at the property confirming that they consented to the application and agreed to the dispensation from full consultation.

The Tribunal's determination

14. The Tribunal must have a cogent reason for dispensing with the consultation requirements, the purpose of which is that tenants who may ultimately foot the bill are fully aware of what works are being proposed, the cost thereof and have the opportunity to nominate contractors.
15. The Tribunal has not been persuaded by the Applicant's case for the following reasons:-
 - (a) The problem has been ongoing and in existence for some years.
 - (b) No efforts appear to have been made to address those problems until January 2010.
 - (c) There is still water supply, albeit intermittent and only affects certain flats.

- (d) The Notice of Intention was served on 18 January 2010 and expired on 17 February 2010 but the second consultation Notice was not served until 25 February 2010.
 - (e) The second consultation Notice will expire on 29 March 2010 namely only 19 days from the date of the hearing.
 - (f) It is not understood that if there was such urgency as claimed, an application to the Tribunal was only lodged on 17 February 2010, namely a month after the Initial Notice of Intention
16. The actions of the Applicant do not suggest any great degree of urgency and the Tribunal does not consider that the lessees would be prejudiced by the works being carried out after the current consultation period has expired.
17. Full consultation has not taken place in this matter, and in the particular circumstances of this case and for the reasons set out above, the Tribunal sees no reason why full consultation should not take place.
18. The Applicant's application under S.20ZA of the Act is therefore dismissed.
19. It should be noted that in making its determination, and as stated in Directions, this application does not concern the issue of whether any service charge costs are reasonable or payable by the lessees. The Tribunal's determination is limited to this application for dispensation of consultation requirements under S.20ZA of the Act.

CHAIRMAN:


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DATED:

10 March 2010