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Ref: LON/00BJ/LDC/2010/0047

LEASEHOLD VALUATION TRIBUNAL
LONDON RENT ASSESSMENT PANEL

DETERMINATION

OF APPLICATION FOR DISPENSATION
UNDER SECTION 20ZA OF LANDLORD AND TENANT ACT 1985 (as amended)

PREMISES: 52-138, Castlecombe Drive, London SW19 6RT.

Applicant: Wandsworth Borough Council.

Respondents: Attached List of 18 Service Charge Payers.

Hearing: Monday 14 June 2010.

Attendances: The Applicant was represented by Miss Valerie Asafu-Agyei, Senior Estate Manager, Central Area Team.
The Respondents were neither present nor represented.

Tribunal: Professor J T Farrand QC LLD FCI Arb Solicitor
Mr B Collins BSc FRICS
Mr E Goss.

Introductory

1. The Application, dated 29 April 2010, sought a dispensation from statutory consultation requirements in respect of emergency works for the renewal of the main water storage tank at the Premises.

~~2. On 6th May 2010, a procedural chairman directed that the case should be considered on 'Fast Track' without a pre-trial review although not on the basis of written representations only.~~

3. The Premises consist of a building containing 44 flats only 18 of which are tenanted by service charge payers (listed as Respondents). The Tribunal was satisfied that Miss Asafu-Agyei had taken sufficient steps as directed to notify the Respondents of the Application and of this Hearing so as to enable them to indicate consent or opposition and to make any appropriate representations.

4. The Applicant had been informed, by letter dated 8 October 2009 from Midland Water Care Services, that the water tank(s) at the Premises were so rusty and otherwise defective that they were unfit even for cleaning. Accordingly, it had been recommended that the tank(s) be replaced "ASAP". The writer emphasised: "I cannot stress enough how urgent these works are, L8 ACOP would probably shut these tanks down". A price for the works was stated of £19,750 (ex VAT).

5. Notwithstanding the urgency of this recommendation, the Applicant's relevant staff member, to whom the letter had been addressed, failed to take any action and left the Central Area Team without advising anyone else of the situation.

6. Despite this deplorable failure of communication as well as of action, the Applicant eventually became aware – how was not revealed - of the need for urgent works to be undertaken. Accordingly, two additional estimates were obtained in March 2010: one quoted a "lump sum price" of £14,971 and the other the sum of £9,250 exclusive of VAT. The latter, from the Newpoint Group, was accepted and a Job Order issued on 6 April 2010 with a target date of 5 May 2010.

7. Letters from the Applicant to the Respondents, describing the emergency works, stating the overall and individual costs and indicating that an application would be made for dispensation of consultation requirements was delivered personally by Miss Asafu-Agyei on 7 April 2010.

8. The Tribunal has seen response forms from 6 Respondents, all supporting the Application. No objections or other representations whatsoever have been received from any Respondents.

9. At the Hearing, Miss Asafu-Agyei informed the Tribunal that, despite the target date, the works had not yet been carried out. Apparently, this is because no replacement tanks had yet become available. Therefore, the problems with the existing tank(s) were being temporarily by-passed via pipes connected to the water mains.

Decision

10. Where an application is made for a determination to dispense with statutory consultation requirements in relation to qualifying works, the Tribunal "may make the

determination if satisfied that it is reasonable to dispense with the requirements” (s.20ZA(1) of the 1985 Act).

11. The information made available to the present Tribunal, which included graphic photographs of the existing tank(s), can be regarded as constituting adequate evidence of the necessity to undertake the proposed works as a matter of emergency. There have been seemingly inexcusable delays in relation to the matter but these will have served to increase the current urgency.

12. There has been no suggestion made to the Tribunal that any of the Respondents might be prejudiced by the absence of an opportunity to participate in a complete statutory consultation in respect of these works.

13. Accordingly, the Tribunal is satisfied that it would be reasonable to dispense with the statutory consultation requirements otherwise applicable in relation to the renewal or replacement works referred to in the Application. Therefore, the Tribunal hereby determines that compliance by the Applicant with the requirements of s.20 of the 1985 Act in relation to those works to the water tank(s) at the Premises is dispensed with.

14. However, in the interests of an overall appreciation of the consequent position, the Tribunal should explain that this determination is limited to the subject-matter of the Application. There is no dispensation from complying with any other consultation requirements. Further, as to the proposed works, as well as generally and notwithstanding any dispensation, it will still be possible for any of the Respondent Leaseholders to challenge any service charge costs as not reasonably incurred or as incurred for works or services not of reasonable standard by application to the Tribunal (see ss.19 and 27A of the 1985 Act). This means that there has been no decision by the Tribunal that the quotation obtained and accepted by the Applicant is in fact a reasonable cost to incur for these works. Similarly, this does not imply that the Tribunal consider the cost to be unreasonable.

Julian Forward

CHAIRMAN

DATE

15 June 2010

**LIST OF SERVICE CHARGE PAYERS AT 52-138 CASTLECOMBE DRIVE
LONDON SW19 6RT**

- 54 Castlecombe Drive — Mrs Gita Ruparelia & Mr Bharat Ruparelia**
- 60 Castlecombe Drive — Mr Sakhawat All Bajwa & Mrs Shamama Bajwa**
- 66 Castlecombe Drive — Ms Theresa Nora Dwyer & Mr Edward K
Stamirowski**
- 68 Castlecombe Drive — Mrs J Bispham**
- 76 Castlecombe Drive — Miss Katie Bragg**
- 78 Castlecombe Drive — Ms Maria Bovi**
- 82 Castlecombe Drive — Mr Nicholas Kobia Amanfi**
- 84 Castlecombe Drive — Mrs Susan E Amartefio & Mr James A Amartefio**
- 86 Castlecombe Drive — Miss Rebecca Evans**
- 96 Castlecombe Drive — Mr Christopher Kemsley & Mr Richard J Verdin**
- 98 Castlecombe Drive — Mr Nigel Pittam**
- 100 Castlecombe Drive — Ms Roxana Maria Granmay Kashani**
- 102 Castlecombe Drive — Ms Tatjana Hilgaire & Mr Igors Kostenko**
- 104 Castlecombe Drive — Mr Ali Asghaiz Kashani**
- 110 Castlecombe Drive — Mr Jeffery Edward Fine, Ms Janet L S Fine,
Mr Nicholas J A Grossmark, Mr Graham K Murton**
- 118 Castlecombe Drive - Mr Mohammad Ghaffari & Mrs Farizneh Ghaffari**
- 124 Castlecombe Drive — Mr Fumbi Mabo & Mrs Sophia Foluwak Mabo**
- 136 Castlecombe Drive — Miss Pauline Persuad**