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DECISION OF THE LEASEHOLD VALUATION TRIBUNAL

LANDLORD AND TENANT ACT 1985 section 20Z(A)

Case Reference: LON/00BK/LDC/2010/0080

Property: 7-15 Hyde Park Mansions, Cabbell Street,
London NW1 5BA

Applicant: Amestown Limited

Respondents: The Leaseholders as Listed in the Schedule
attached to the Application

Application Received: 2nd August 2010

Date of Directions: 9th August 2010

Date of Determination: 6th September 2010

Tribunal Members: S. Shaw LLB (Hons) MCI Arb
T Sennnet MA FCIEH
O Miller BSc

DECISION

1. This case involves an Application received on 3rd August 2010, in which Amestown Limited ("The Applicant") seeks an order for the dispensation of all or any of the consultation requirements of section 20 of the Landlord and Tenant Act 2005. The Property concerned is 7-15 Hyde Park Mansions, Cabbell Street, London, NW1 5BA ("the Property") and is made against the various leaseholders listed in the schedule attached to the Application ("The Respondents").
2. The Tribunal directed that this case was appropriate to be dealt with on paper, without the need for attendance by the parties. An opportunity was however given for any party to request an oral hearing. No such request was received, and thus this determination is made on the basis of the written representations.
3. The issue in the case is whether the consultation requirements of section 20 of the Act should be varied or dispensed with, given that the Applicant asserts that there is an urgent requirement to carry out electrical works at the property. The communal lighting has been disconnected and temporary lighting installed.

4. The Applicant's Case

The numbers 7-15 refer to Block numbers, and within each of these blocks, there are several flats – as understood by the Tribunal there are 54 flats in all at Hyde Park Mansions. An NICEIC Periodic Inspection Report made on 25th May 2010, following an earlier inspection, (made on 13th May 2010) recommended that remedial works be carried out to "*bring the installation up to current standard.*" The wiring installation was described as being "*of an aging condition.*"

5. As a result of this recommendation, quotations were sought from contractors, one of which contractors, YS Electrical Limited (which company also undertook the initial survey inspection), had terminated the defective electrical supply and installed temporary lighting. The reasons for having done so are set out in their letter dated 19th May 2010, and relate to Health & Safety concerns, and breaches of Wiring Regulations.
6. A quotation for the required works was obtained from those contractors, and a further quotation was obtained from Parkway Electrical Services Limited. This further contractor was proposed by some leaseholders at the Property. Those quotations can be found at Appendix 5 of the Bundle prepared by the Applicant for the purpose of this Determination.

7. In the event, the contractor proposed by those leaseholders was instructed to carry out those works, which works commenced on 19th July 2010. It may be that they have now been completed.

8. The Applicant's position is that the electrical state was in a dangerous condition, that it required urgent replacement, and that the temporary lighting provided after the disconnection was inappropriate for the Property – and presumably, that it was not in the interests of the Respondents to pursue the consultation process in full, given the time to be taken by such consultation. Further the meeting referred to above resulted in the leaseholders' own preferred contractor being selected, although the representatives with whom the meeting took place may not necessarily have represented all leaseholders.

The Respondents' Case

9. No Respondents have objected to the Application for dispensation, nor made any representations – with the exception of one. Mr A Lain of Flat 13D, by e-mail of 26th August 2010 has set out his written observations. That e-mail opposes the request for a dispensation order, on the basis that its need results from alleged mis-management by the current managing agents. It suggests that had there been formal consultation *"the overall costs of implementation could have been lower."*

10. Later in that e-mail, Mr Lain confirms that he too had Health and Safety concerns about the electrical installation, and in no way challenges the need for the works to have been carried on an urgent basis. Indeed he intimates that provided the managing agents pay the costs of this application, and manages the installation to a satisfactory standard, he would agree to make a service charge payment on account. He has several complaints about alleged bad management of the building.

Conclusion of the Tribunal

11. The Tribunal has taken into account the concerns of the above-mentioned respondent. These concerns relate to possible overcharging and bad management. Such matters can be pursued, if so desired, by a separate application by Mr Lain and/or any other Respondent in the context of a section 27A application in respect of reasonableness of costs. This Decision makes no finding in that regard, but only in respect of whether or not it is reasonable to dispense with the relevant consultation provision. Given the clear evidence of a Health & Safety risk, and the unsatisfactory nature of the temporary arrangements, the Tribunal is satisfied that it is reasonable to make such an order. Accordingly the Dispensation Order as requested by the Applicant is made.

Legal Chairman:

S SHAW



Dated:

6th September 2010