

**LEASEHOLD VALUATION TRIBUNAL
OF THE
NORTHERN RENT ASSESSMENT COMMITTEE**

**DECISION OF THE LEASEHOLD VALUATION TRIBUNAL
SECTION 20ZA of
THE LANDLORD & TENANT ACT 1985**

Property: 2 Park Villas, Roundhay, Leeds LS8 1DL
Applicant: Adair Paxton on behalf of
Park Villas (No 2) Management Company Ltd
Respondents: Various as Schedule
Tribunal: L J Bennett (Chairman)
I James Dip Surv, MRICS
L Bottomley, MIFireE
Date of application: 23 March 2010
Date of consideration: 12 May 2010

Application:

1. Adair Paxton Managing Agents of the Property apply under section 20ZA of the Landlord and Tenant Act 1985 (the "Act") for dispensation from compliance with the consultation requirements contained in section 20 of the Act and Part 2 of Schedule 4 of the Service Charges (Consultation Requirements)(England) Regulations 2003 (SI 2003/1987)(the "Regulations").
2. The completed application form asked for the application to be dealt by fast track explaining the urgency "The Property is currently without fire protection (alarm, emergency lights etc) and is in serious contravention of Fire Regulations, pursuant to a fire risk assessment recently obtained."
3. The Respondents to the application are the Leaseholders of the seven flats with communal cellars and grounds at the Property.

Directions:

4. On 14 April 2010 the Tribunal made directions to facilitate consideration of any response by the Respondents. The Tribunal has not received any such response.

Leases:

5. The Applicant submitted a copy of a lease dated 28 February 1991 relating to first floor flat and garage number 2 to be known as Flat D at the Property. We accept that this Lease is typical and the other relevant leases are in similar terms.
6. The Lease empowers the management company Applicant to maintain, repair, redecorate and renew and under Clause 6.5 gives discretion to carry out improvements.
7. The Lease provides for recovery of the cost of such improvements by way of service charge.
8. Although the Applicants statement of case refers to Adair Paxton's assumption of management "upon request of the Freeholder," the Lease provides that management is to be undertaken by Park Villas (No 2) Management Company Ltd on whose behalf the original application was stated to filed. We take no point on this as it is clear that Adair Paxton has undertaken the management function contained in the Lease.

Evidence and submissions:

9. The application indicates that the Property is "A converted Victorian mansion now comprising seven flats, five of which have been sold off on long leaseholds with the Freeholder retaining two of the apartments occupied by way of assured shorthold tenancies."
10. The application is explained: "This application relates to a request to install a fire alarm and emergency lighting circuit in accordance with the recommendations of the Fire Risk Assessment. The Fire Risk Assessment indicates that the property is currently in serious contravention of regulations and there is a significant risk to the tenants/occupiers until the installation is provided. Temporary smoke protection in the common areas is being provided on a "battery operated" basis but this is inadequate."
11. The Applicant seeks dispensation from compliance with section 20 of the Act so that the works might be carried out as early as possible because of the identified risk.
12. The Applicant's "Reasons for application indicate that section 20 consultation procedures have been commenced" but would take "Up to another 2 months to complete and are reliant upon maturity acceptance" and it is unlikely "that this would not be obtained but should it be the case would be undue delay."
13. The Applicant arranged for a Fire Risk Assessment on 25 January 2010 by JG Streets, B Eng (Hons). Significant findings included evidence of arson and a requirement to "provide adequate alarm and detection system emergency escape lighting to all escape routes."
14. The Applicant has obtained three estimates for the work and has indicated it wishes to accept an estimate with the highest specification but the lowest cost. We make no comment upon that estimate but would urge that steps are taken to

ensure that the contractor selected is suitably qualified to undertake the work, insured and has standing to independently certificate the work.

Conclusions with reasons:

15. From the information provided we are satisfied that the fire works are urgent and necessary to the Property to avoid continuation of unacceptable risk and that it is likely that they are necessary to comply with statutory requirements.
16. Taking into account 15 we conclude it is reasonable to dispense with the consultation requirements within section 20 of the Act and grant dispensation under section 20ZA(1) from the requirements set out in schedule 4 of the Regulations in respect of the works relating to fire installations at the Property.

Order

17. That the Applicant is dispensed from compliance with the consultation requirements within section 20 of the Landlord & Tenant Act 1985.



**L J Bennett
Chairman**