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H M COURTS & TRIBUNALS SERVICE

LEASEHOLD VALUATION TRIBUNAL

Case Reference CHI/45UG/LDC/2011/0026

DECISION OF THE LEASEHOLD VALUATION TRIBUNAL ON AN APPLICATION UNDER S20ZA OF THE LANDLORD AND TENANT ACT 1985

Applicant: Knyveton Court 1-9 and 10-28
(Burgess Hill) RTM Company Ltd

Respondent: The Leaseholders of Knyveton Court listed
on the attached schedule

Premises: 1-9 and 10-28 Knyveton Court Grove Road
Burgess Hill West Sussex RH15 8LD

Date of Application: 11 August 2011

Leasehold Valuation Tribunal: Mrs F J Silverman Dip Fr LLM
Mr A McKay FRICS

Date of hearing : 9 September 2011

Decision

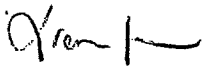
The Tribunal determines that it will not exercise its discretion to dispense with the consultation requirements imposed by s.20 of the Landlord and Tenant Act 1985.

1. The Applicant seeks a determination of its application for dispensation from the consultation requirements imposed by s. 20 of the Landlord and Tenant Act 1985.
2. The Application to the Tribunal was made on 11 August 2011.
3. Directions were issued by the Tribunal on 16 August 2011.
4. A hearing was arranged for 9 September 2011 but no representative either from the Applicant or Respondents attended the hearing.
5. The premises comprise two three storey flat roofed residential blocks of flats probably built in the 1960's.
6. The Applicant has a repairing obligation in respect of the structure, exterior and common parts of the premises imposed on it by Clause 5 of the lease.
7. The Applicant sought the Tribunal's consent to dispense with the consultation requirements imposed by s20 Landlord and Tenant Act 1985 in respect of the proposed re-roofing of both blocks of flats.
8. A s20 notice had been served some four years ago in relation to this project but had not been implemented, since when the present Applicant had taken over responsibility for the management of the premises.
9. The Applicant maintained that repairs were needed because there had been water penetration into some of the top floor flats.

10. No objections to the application have been received by the Tribunal . Several letters in support of the application had been received by the Tribunal from various leaseholders of the premises.
11. The Tribunal is being asked to exercise its discretion under s.20ZA of the Act. The wording of s.20ZA is significant. Subs. (1) provides:
- “Where an application is made to a leasehold valuation tribunal for a determination to dispense with all or any of the consultation requirements in relation to any qualifying works or qualifying long term agreement, the tribunal may make the determination *if satisfied that it is reasonable to dispense with the requirements* (emphasis added).”
12. The Tribunal understands that the purposes of the consultation requirements is to ensure that leaseholders are given the fullest possible opportunity to make observations about expenditure of money for which they will in part be liable.
13. The Tribunal inspected the exterior of the premises on 9 September 2011. It was unable to gain access to the roof .. The only visible part of the roof appeared to be in good condition. The Tribunal did gain access to two flats on the top floor of the premises in one of which there was evidence of historic water penetration but no evidence of current damage or leaks suggestive of an urgent need to repair.
14. The Tribunal did not have available to it any copy of the previous s20 notice, nor any surveyor’s report giving details of the proposed works and the need for them. It understood that a current s20 notice had already been served by the Applicants and that consultation on the proposed project was already under way. No copy of the current s20 notice was provided to the Tribunal.
15. Despite the fact that no objections had been received and a minority in number of the leaseholders had consented to the proposed works the Tribunal was not satisfied from its inspection of the property that the works were sufficiently urgent or necessary to permit them to exercise their discretion in the Applicant’s favour. Further, it did not have

sufficient information from the Applicant as to the extent and cost of the works. In view of the fact that a s20 consultation was already in progress the Tribunal did not consider that any prejudice would be caused to either party by requiring the s20 consultation to proceed as required by the statute.

16. In these circumstances the Tribunal determines that it is not reasonable to exercise its discretion to dispense with the statutory requirements for consultation.



Frances Silverman

Chairman

Date 15 September 2011