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**RESIDENTIAL PROPERTY TRIBUNAL SERVICE
LEASEHOLD VALUATION TRIBUNAL**

Case number : CAM/26UG/LDC/2012/0009

Property : Anvil House, 51A High Street, Harpenden,
Herts. AL5 2SN

Applicants : Albany holdings Ltd

Respondent : The Leaseholders of the property

Date of Application : 25th June (received 2nd July 2012)

Type of Application : Application to dispense with consultation
requirements in respect of major works
(Section 20ZA Landlord and Tenant
Act 1985 as amended ("the 1985 Act"))

Tribunal : Robert Brown FRICS
Jeremy Sims LL.M Lawyer

Date and place : 23rd July 2012 at Harpenden

DECISION

1. The Tribunal confirms its oral determination given on 23 July 2012 that it is **not** reasonable to dispense with the statutory consultation requirements of s.20 of the Landlord and Tenant Act 1985 ("the Act") in relation to the proposed repairs to the roof at the property.

REASONS

Background

2. On the 2nd July 2012, the Tribunal received the application under Section 20ZA of the Act for dispensation from all or any of the consultation requirements contained in Section 20 in relation to repairs to the roof only at the property.
3. Notice of the application together with information from the Residential Property Tribunal Service was given to the leaseholders of the 10 flats at the property. A Directions Order was made on the 2nd July 2012 including a direction that any Leaseholder who wanted to make representations to respond by 4.00 pm on the 18th July 2012.
4. The Tribunal considered that this matter was urgent enough to warrant an abridgement of the normal 21 day notice period for a hearing in accordance with Regulation 14(4) of the **Leasehold Valuation Tribunals (Procedure) (England) Regulations 2003** bearing in mind that as a result of recent rain and the likelihood of more bad weather damage could extend.

The Law

5. Section 20 of the Act limits the amount which tenants can be charged for major works unless the consultation requirements have been either complied with, or dispensed with by a leasehold valuation tribunal. The detailed consultation requirements are set out in Schedule 4, Part 2 to the **Service Charges (Consultation Requirements) (England) Regulations 2003** ("the Consultation Regulations"). These require a Notice of Intention, facility for inspection of documents, a duty to have regard to tenants' observations, followed by a detailed preparation of the landlord's proposals. The landlord's proposals, which should include the observations of tenants, and the amount of the estimated expenditure, then has to be given in writing to each tenant and to any recognised tenant's association. Again there is a duty to have regard to observations in relation to the proposal; to seek estimates from any contractor nominated by or on behalf of tenants and the landlord must give its response to those observations.
6. 20ZA of the Act allows a Leasehold Valuation Tribunal to make a determination to dispense with the consultation requirements if it is satisfied that it is reasonable.

The Facts Found

7. On the 29th June 2012 the agent for the Applicant landlord served notice under the requirements of section 20 of the Landlord and Tenant Act 1985 and in compliance with the consultation requirements (see above).

The Inspection

8. The members of the Tribunal inspected the property in the presence of Mr D Lawson of Pier Property Management on behalf of the Applicant Landlord and Mr S Moore representing the Lessees. The following lessees were also

present: Ms C Victorin (Flat 5), Mr G Warrington (Flat 7), Ms C Dowding (Flat 8), Mrs and Mrs I Hardy (Flat 10) and Ms J Birch (Flat1).

9. The property is a purpose built 2 storey block of flats over a small parade of shops built in the 1960s of traditional construction under a flat roof.
10. The Tribunal was able to inspect the exterior of the roof and see the damage caused to the interior of flats 5, 6, 7 and 8.
11. From the inspection the members noted:
 - Cracking to the asphalt finish
 - Debris from gutter cleaning lying on roof surface
 - TV aerial cables moulded into the asphalt surface
 - Small fall to roof resulting in potential for pooling of water
 - Very shallow gutters to rear elevation
 - Water staining to the interior of the flats inspected

The Hearing

12. The hearing was attended by Mr Lawson and Mr Scott. The following lessees were also in attendance: Ms Victorin, Mr Warrington, Mr and Mrs Hardy and Ms Birch. Mr Moore was appointed to represent all the lessees. Nine of the ten leaseholders had signed an objection to the application for dispensation.
13. In his statement of case Mr D Lawson Property Manager at Trust Property Management explained repairs to the roof are urgently required to prevent further damage to the apartments immediately below the roof. A number of those apartments have experienced water leaking into their flats.
14. At the hearing Mr Lawson advised that he had, the previous week, instructed Benjamin Mire Chartered Surveyors to prepare a report on the condition of the roof.
15. In his statement Mr Lawson included three estimates ranging from £2,800.00 to £13,335.00 plus VAT for repair works.
16. Mr Moore explained that works had been carried to the roof in the 1980s, 1990s and a major recovering had taken place in 2004 at a cost of some £50,000.00 with other works totalling approximately £130,000.000.
17. Mr Moore was unclear as to whether or not this work had been guaranteed, in any event further repairs including partial recovering over flats 8 and 9 in 2007 and flat 7 in 2009.
18. In so far as it is relevant the parties were unable to advise the Tribunal as to whether or not those works had invalidated any guarantee. Mr Lawson in acknowledging this agreed to take this up with Grimwade the 2004 contractor.
19. Mr Moore produced, at the hearing, three estimates ranging from £16,000 to £23000.00 plus VAT. The works proposed had not been specified and the contractors had inspected and estimated. The works proposed, which included guarantees or warranties, were considerably more extensive than the repair works proposed by Mr Lawson.

Conclusions

20. The Tribunal considered all the written and oral evidence submitted.
21. The roof is in a condition that warrants recovering and reforming of the gutters.
22. Despite the fact the roof is actually leaking in bad weather the Lessees affected indicated they would prefer to wait whilst proper investigation was undertaken.
23. The Tribunal found that the proposals put forward by the Applicant were of a short term nature and were unlikely to resolve the long term problem. This, together with Mr Lawson's late instruction for the preparation of a survey, led the Tribunal to the conclusion that a short term solution is inappropriate and therefore dispensation should not be granted.

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Robert Brown
Chairman

24th July 2012