



HM COURTS & TRIBUNALS SERVICE

LEASEHOLD VALUATION TRIBUNAL

PROPERTY: 71 South Street, Bridport, Dorset DT6 3NZ

Applicant: Magna Housing Association

and

Respondent: Mr and Mrs Harmon

In The Matter Of

Section 20ZA of the Landlord and Tenant Act 1985

**Landlord's application for the dispensation of all or any of the
consultation requirements contained in Section 20 Landlord and
Tenant Act 1985**

Tribunal

Mr A Cresswell (Chairman)

Mr K M Lyons FRICS

Date of Hearing: 12 December 2012

Appearances: Ms S Lloyd-Foxe for the Applicant
Mr J Harmon for the Respondents

DETERMINATION

The Application

1. On 20 November 2012, Ms S Lloyd-Foxe, acting on behalf of Magna Housing Association, made an application to the Leasehold Valuation Tribunal for the determination of an application for the dispensation of all or any of the consultation requirements contained in Section 20 Landlord and Tenant Act 1985 in respect of works to a roof of the property.

Inspection and Description of Property

2. The Tribunal inspected the property on 12 December 2012 at 10.00. Present at that time were Ms Lloyd-Foxe and Mr J Harmon, son of the Respondents. The property in question consists of a flat on the ground and part first floor of a mid-terrace house of 3 storeys. The house is constructed of brick walls with a pitched slate roof. The property has a rear extension, brick-built with a mono pitched roof of mostly slate.
3. The Tribunal saw evidence of water damage within the single storey extension. The ceiling consisted of traditional willow lath and plaster under-boarded with a hardboard surface. There was damage to the hardboard surface, some of which had fallen away, and the Tribunal could see damage too to the lath and plaster work. Externally there was evidence that slates had previously slipped due to nail fatigue and been secured with lead clips

Summary Decision

4. This case arises out of the Landlord's application for the dispensation of all or any of the consultation requirements contained in Section 20 Landlord and Tenant Act 1985 in respect of replacement of the roof of the property. Under Section 20ZA of the Landlord and Tenant Act 1985 (as amended), the Tribunal has jurisdiction to make a determination dispensing with all or any of the consultation requirements "if satisfied that it is reasonable to dispense with the requirements." The Tribunal has determined that the landlord has demonstrated that it is reasonable to dispense with some of the requirements, and for that reason makes a determination dispensing with the consultation requirements save to the extent that the landlord will now obtain a third quotation and consult with the Respondents as to the choice of contractor

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before starting phase 1 (see below) of the planned works. Phase 2 (see below) will be subject to the normal consultation requirements.

Directions

5. Directions were issued on 22 November 2012. These directions provided for the matter to be heard on the fast track.
6. The Tribunal directed that the parties should submit specified documentation to the Tribunal for consideration. Respondents wishing to contest this application were advised to attend the hearing when they would be given an opportunity to be heard.
7. This determination is made in the light of the documentation submitted in response to those directions at the hearing and the oral representations received at the hearing.

The Law

8. The relevant law is set out in sections 18, 19, 20 and 20ZA of Landlord and Tenant Act 1985 as amended by Housing Act 1996 and Commonhold and Leasehold Reform Act 2002.
9. The relevant law we took account of in reaching our decision is set out below:
Landlord and Tenant Act 1985 as amended by Housing Act 1996
and Commonhold and Leasehold Reform Act 2002

Section 20 deals with the limitation of service charges and consultation requirements

20ZA. Consultation requirements: supplementary

(1) 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.

(2) In section 20 and this section—

“qualifying works” means works on a building or any other premises, and

“qualifying long term agreement” means (subject to subsection (3)) an agreement entered into, by or on behalf of the landlord or a superior landlord, for a term of more than twelve months.

(5) Regulations may in particular include provision requiring the landlord—

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- (a) to provide details of proposed works or agreements to tenants or the recognised tenants' association representing them,
- (b) to obtain estimates for proposed works or agreements,
- (c) to invite tenants or the recognised tenants' association to propose the names of persons from whom the landlord should try to obtain other estimates,
- (d) to have regard to observations made by tenants or the recognised tenants' association in relation to proposed works or agreements and estimates, and
- (e) to give reasons in prescribed circumstances for carrying out works or entering into agreements.

Ownership

10. Magna Housing Association is the owner of the freehold.

The Lease

11. The lease before the Tribunal is a lease dated 30 April 1984, which was made between West Dorset District Council as lessor and Brenda Swaffield and David Andrew Swaffield as lessees. It was agreed that this is the lease which contains the agreement between the parties to this application.

The Applicant's Case

12. Ms Lloyd-Foxe explained that the damage to the roof and ceiling of the single storey extension had become apparent on 16 November 2012 following heavy storms. Ms Lloyd-Foxe had attended and had observed the damage the Tribunal has described above and saw water and debris on the floor within the extension. It was apparent to her that two slates had slipped, and she was able to see daylight from within. The roof timbers were, in her opinion, "in a fairly poor condition". The Respondents had ensured that the loose slates were re-fixed and that other slates in other areas of the roof were secured.
13. The Applicant is concerned that the whole roof may require replacement and both the Applicant and Mr Harmon have concerns as to the ability of the roof to sustain further inclement weather in the winter months.
14. The Tribunal was told that the building is listed and subject to Listed Building Consent and that the Listed Building Consent officer has raised no objection to the roof being stripped and made watertight. Ms Lloyd-Foxe told the Tribunal that Listed Building Consent for further works would take some 8

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weeks, which would provide time for compliance with statutory consultation for any further required works.

15. Ms Lloyd-Foxe envisages two phases, the first being the removal of the slates and the covering of the roof so as to ensure that it is watertight, together with an assessment of what works are required. The second phase would be any further works required and would involve the acquisition of Listed Building Consent and formal consultation with the Respondents.
16. Ms Lloyd-Foxe told the Tribunal that she had already obtained two quotations for the works in relation to phase 1, being a quotation from a local roofing company in the sum of £1152 including VAT and a quotation from her direct works department in the sum of £1216.96 + £141.78, both including VAT. She intended to seek a third estimate.
17. Mr Harmon agreed that the Applicant should obtain a third quotation and that he should be consulted about the choice of builder and was anxious that the work should be started as soon as possible thereafter. He indicated that any argument about finance could be raised later.

Consideration and Determination

18. The Tribunal finds it clear from its inspection of the property and the oral evidence that there is a need to ensure the roof of the extension is watertight, particularly as this is the start of the winter period and the room within the extension is not in a usable state pending an assurance that the roof is watertight. This was the view of the parties too.
19. The Tribunal could see why the normal consultation requirements should not be undertaken in this case.
20. The Tribunal determined that the dispensation requested by the Applicant be allowed for phase 1, save that the Applicant is to obtain a third estimate for phase 1 and consult with the Respondents before commencing phase 1. The normal consultation requirements are to be followed for phase 2.

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Signed

Andrew Cresswell (Chairman)

Date 13 December 2012

**A member of the Southern Leasehold Valuation Tribunal
Appointed by the Lord Chancellor**