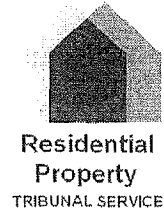


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LONDON RENT ASSESSMENT PANEL

**DECISION OF THE LEASEHOLD VALUATION TRIBUNAL
ON AN APPLICATION UNDER SECTION 20ZA
OF LANDLORD AND TENANT ACT 1985**

Case Reference: LON/00AW/LDC/2012/0096

Premises: 1-7 Onslow Square, London SW7 3NJ

Applicant: The Wellcome Trust

Representative: Knight Frank LLP

Respondents: Ten lessees as listed in the application

Leasehold Valuation Tribunal: Mr NK Nicol
Mr D Banfield
Mr N Maloney

Decision of the Tribunal

The Tribunal has decided to grant dispensation from the statutory consultation requirements for the purposes of the proposed roof replacement works. This decision is not relevant to the reasonableness of the works or their cost.

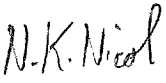
Reasons for Decision

1. The Applicant seeks a determination under section 20ZA of the Landlord and Tenant Act 1985 dispensing with the statutory consultation requirements under s.20 of the same Act and the Service Charges (Consultation Requirements) (England) Regulations 2003.
2. The Tribunal issued directions on 29th August 2012 providing for the lessees to be notified of the proceedings and giving them the opportunity to take part. The Tribunal is satisfied that the lessees were all properly notified by letter dated 31st August 2012 from the Tribunal. Only one response was received (see further below). No lessees

sought to challenge the current need for the proposed works or the basis for claiming urgency and dispensation from the consultation requirements.

3. While carrying out a programme of cyclical external decorations, the Applicant uncovered unexpected corrosion from which it has been concluded that the roof needs replacing and that it would be much cheaper to do so if it were done with the existing scaffolding in place (£35,500 rather than £51,332.50, excluding fees and VAT). Since the decoration works are due to be completed by 28th September 2012, there is not enough time for the full consultation process before the scaffolding is due to be struck. There is also ongoing water ingress which would be better addressed by dealing with the roof urgently.
4. The Applicant wrote to the lessees on 23rd August 2012 providing all the details that would usually be provided at the first stage of the statutory consultation process. The need for the works was established by a brief report dated 7th September 2012 from a surveyor, Nicholas Hill BSc of Knight Frank LLP. Two tenders were sought and obtained for the work – the two figures already referred to above were quoted by the existing contractor, Rosewood Ltd, and Bastows Ltd respectively. Mr Hill produced a tender report, also on 7th September 2012, recommending acceptance of the tender from Rosewood Ltd. The Tribunal is satisfied that the Applicant has complied with as much of the statutory consultation process as has been possible in the time available.
5. In response to the directions, Mr Graham Atkinson, apparently on behalf of the lessee of Flat 7, Dr Charlotte Westbury, wrote by letter and e-mail to the Tribunal raising various concerns which he summarised as follows:-
 - (1) Why these works were not discovered earlier?
 - (2) The works may not be priced ok (more expensive now than if identified earlier;
 - (3) Managing agent/surveyor may have both conflicts of interest & history of negligence which have led to this situation and in their haste have not yet taken reasonable steps to assess;
 - (4) Landlord (also conflicted) should indemnify the residents against these costs. Moreover any balance of doubt should be given to the residents until the issues raised are addressed in entirety.
6. The issue before the Tribunal is only about dispensing with the statutory consultation requirements. The issues raised by Mr Atkinson are not relevant to that but rather to the reasonableness of the works and the payability of any subsequent service charges. The Tribunal is not satisfied that it would be appropriate to address Mr Atkinson's concerns at this stage:-

- a) There is no formal application under s.27A of the Landlord and Tenant Act 1985 challenging the payability of any service charges.
 - b) None of the parties have yet prepared for any dispute on that subject.
 - c) The Applicant has undertaken to fund the roof works for the moment while they investigate the cause of the roof corrosion and whether at least part of the cost may be recovered from contractors who carried out roof works previously. Therefore, there are currently no service charges to challenge.
7. The Tribunal cannot comment on whether Mr Atkinson's concerns are well-founded but the parties should do their best to try to resolve them so as to limit the possibility of later litigation.
 8. In the circumstances, the Tribunal is satisfied that it is reasonable to dispense with the statutory consultation requirements.

Chairman: 
NK Nicol

Date: 25th September 2012