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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/2012/0127

**Premises:** 1-7 Atlantic Court 73-77 King's Road SW3 4NX

<b>Applicant: Represented by</b>	Athens Limited Colliers International	
<b>Respondents:</b>	Friendship Holdings Limited	
<b>Represented by</b>	Alivin Place Property Management Limited	
<b>Date of receipt of Application:</b>	14 <sup>th</sup> March 2012	
<b>Tribunal</b>	P L Leighton LLB Mrs J Davies FRICS	
<b>Date of Application :</b>	29th October 2012	
<b>Date of Decision</b>	12 <sup>th</sup> December 2012	

**DECISION**

**Introduction**

- 1 The Applicant seeks dispensation from the Tribunal under section 20ZA of the Landlord and Tenant Act 1985 in respect of roof repairs carried out at 1-7 Atlantic Court 73-77 Kings Road Chelsea London SW3 4NX
- 2 Directions were given on 2<sup>nd</sup> November 2012 and the matter was set down for a paper determination in the week commencing 10<sup>th</sup> December 2012
- 3 No objection has been received from the Respondent and in their reply dated 14<sup>th</sup> November 2012 they have agreed with the proposal to dispense. Accordingly the Tribunal did not consider an oral hearing was necessary and proceeded to deal with the matter as a paper determination

## **The Facts**

- 4 Atlantic Court is a purpose-built block containing commercial units on the ground floor and basement with offices on the first and third floors and seven flats on the second to fourth floors.
- 5 The landlord had commenced work to repair the roof of the premises and had carried out a proper section 20 consultation in respect of those works. In the course of the works the contractors confirmed that additional roof and associated repairs would be required amounting to £10,505 plus VAT and the landlord considered that it would be both timely and cost effective to allow the existing contractors to carry out the works while the scaffolding and the workmen were on site. The additional works were not evident at the time of the original quotation.
- 6 The landlord through its agents Colliers consulted with the leaseholder and agreed to meet the initial outlay for the repairs for which they would be reimbursed 50% of the costs near to the end of each of the service charge years for 2013 and 2014. It was also agreed that the additional works would form part of the agreed payment plan.
- 7 Further works for external stone and brick work cleaning were considered necessary together with additional scaffolding for such works. However these do not form part of the claim for dispensation and the landlord will seek to undertake these works either in 2013 or 2014 subject to further section 20 consultation with the leaseholder.
- 8 The total sum for the additional works amounts to £10,505 plus VAT together with additional time costs incurred by the project manager amounting to £1155.55 plus VAT.

## **The Tribunal's Decision**

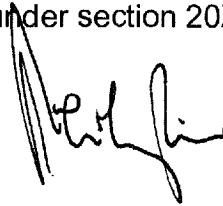
- 9 In order to comply with Section 20 of the Act, the landlord must comply with the Service Charges (Consultation Requirements) (England) Regulations 2003. ("the 2003 Regulations") The relevant regulations which apply to building works by private contractors is Schedule 4 Part 2.
- 10 The Tribunal in deciding whether to grant dispensation has to consider how the landlord responded to the situation with which it was confronted in October 2012 in exercising its discretion

11 In particular the Tribunal has to consider whether or not the leaseholder in question was prejudiced as a result of the actions which were taken and the fact that it was not possible or reasonable to provide formal consultation.

12 It appears to the Tribunal that no prejudice was occasioned to the leaseholder as a result of the non-compliance by the landlord with Schedule 2 Part 4 of the 2003 regulations. The leaseholder has been notified of the arrangements and has in effect agreed with the landlord's proposals which are in the view of the Tribunal reasonable.

13 In the final analysis the Tribunal takes the view that the leaseholder not having been prejudiced, it would be wrong to refuse to grant dispensation in this case. The object of the regulations is not to penalise the landlord but to ensure good practice and to give protection to the interests of leaseholders. We are satisfied that the purpose of the regulations was met in this case and in the circumstances dispensation under section 20ZA will be granted

Chairman          Peter Leighton



Date                12<sup>th</sup> December 2012