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

Case Reference: LON/00BK/LDC/2012/0125

Premises: 21-22 Great Pulteney St, London W1F 9NG

Applicant(s): Humberside Holdings Inc

Representative: Fletcher King (Mr Alex Colenso) Managing Agents

Respondent(s): (1) Rolandi Investments Properties Inc (Flats 1,2,3)
(2) Westminster Investments (Flat 4)

Representative: Liongate Capital Management

Date of hearing: N/A

Appearance for Applicant(s): N/A

Appearance for Respondent(s): N/A

Leasehold Valuation Tribunal: Ms L Smith (Lawyer chair)

Date of decision: 12 December 2012

Decisions of the Tribunal

In accordance with the provisions of s20ZA of The Landlord and Tenant Act 1985 ("LTA 1985"), the Tribunal dispenses with the formal consultation requirements of s20 LTA 1985 in relation to the emergency works to a chimney stack to the party wall of the Property.

The application

1. The Applicant seeks a dispensation from the consultation requirements of s20 LTA 1985 in relation to works to a chimney stack to the party wall of a property at 21-22 Great Pulteney St, London W1F 2NG ("the Property"). The Applicant is the successor to the Lessor of the Property. The Respondents are the successors to the Lessee of the Property.
2. The Applicant indicated in the application that it was content for the case to be dealt with on the papers. Directions were given on 29 October 2012 inviting the Respondents to indicate by 7 November whether they consented or opposed the application and whether they required an oral hearing

The background

3. The Property is described in the application as a four storey building with pub premises to the ground floor and 4 residential flats above.
4. The works in relation to which dispensation is sought are emergency repairs to the chimney stack to the party wall of the Property ("the Emergency Works"). A surveyor reported that the chimney stack was in a very poor state of repair with loose and defective brickwork and masonry. A structural engineer reported subsequently that there is severe spalling of bricks and render which is so severe that quite substantial pieces of brick, mortar and render can be removed by hand. The Applicant is concerned that these could easily be dislodged and fall onto the street below which is a busy pedestrian thoroughfare such that there is a significant hazard to the public and a risk of injury or loss of life. The Emergency Works form part of a larger programme of redecoration and repair works which it is proposed will commence in Spring 2013 ("the Works"). The Applicant intends to follow the usual s20 consultation procedure in relation to the remainder of the Works.
5. The Applicant sent to the Respondents the first notice under s20 (dated 8 October 2012) notifying its intention to carry out the Works ("the s20 Notice"). Two contractors were invited to tender for the Emergency Works (Collins (Contractors) Ltd and Woodbar Ltd). They produced tenders of £8638 and £17,758 respectively. The Applicant intends to award the contract to the contractor with the lowest tender. The relevant period under the s20 Notice expired on 9 November 2012. This application was made on 26 October 2012. It does not appear that any objections or observations were made by the Respondents.

The issues

6. The Applicant seeks a dispensation from the consultation requirements of s20 in relation to the Emergency Works on the basis of the danger posed by the poor state of repair of the chimney stack to the party wall of the Property.

7. Section 20ZA of the Landlord and Tenant Act 1985 provides that:-
“(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”
8. None of the Respondents has objected to the application. The Tribunal accepts that it is reasonable to dispense with the formal consultation requirements so far as it is necessary to do so in order that the Emergency Works can start as soon as possible. Accordingly, the Tribunal grants the dispensation as requested.
9. For the avoidance of doubt, the only issue for the Tribunal to determine on this occasion is whether it is reasonable to grant the dispensation sought in relation to consultation. This determination does not prevent any later application in relation to the Respondents' liability to pay for the Emergency Works under the Lease nor in relation to the reasonableness of the costs of the Emergency Works.

Chairman:



Ms L Smith

Date:

12 December 2012