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HM Courts
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LEASEHOLD VALUATION TRIBUNAL
OF THE
MIDLAND RESIDENTIAL PROPERTY TRIBUNAL SERVICE

BIR/00CW/LDC/2013/0005

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

<u>Applicant:</u>	Chief and Ground Rents Ltd (Freeholder)
<u>Respondents:</u>	R Clark and others (Leaseholders)
<u>Subject properties:</u>	Apartments at: Market Square Wolverhampton WV3 0NL
<u>Date of application to Leasehold Valuation Tribunal:</u>	22 May 2013
<u>Member of the Tribunal:</u>	Professor N P Gravells
<u>Date of decision:</u>	10 JUN 2013

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- 1 This is a decision on an application made to the Leasehold Valuation Tribunal by Chief and Grounds Rents Ltd, the freeholder of Apartments 31-48 Market Square, Wolverhampton WV3 0NL ('the subject properties'). The application, dated 21 May 2013 and received by the Tribunal on 22 May 2013, is under section 20ZA of the Landlord and Tenant Act 1985 ('the 1985 Act') for a determination to dispense with the consultation requirements for qualifying works provided for in section 20 of the 1985 Act. The Respondents are the leaseholders of the subject properties.
- 2 There appears to be no dispute as to the material facts.
- 3 The variable voltage variable frequency (VVVF) drive on the lift serving the subject properties has failed and requires repair work to restore the lift to working condition. The (estimated) cost of the work is £5426.72. In accordance with the service charge provisions of the Respondents' leases, those costs are apportioned equally among the leaseholders of the 18 subject properties, resulting in a charge of approximately £300 per apartment.
- 4 It is not disputed -
 - (i) that the proposed works to the lift constitute 'qualifying works' for the purposes of sections 20 and 20ZA of the 1985 Act;
 - (ii) that, in accordance with section 20(1) of the 1985 Act and regulation 6 of the Service Charge (Consultation Requirements) (England) Regulations 2003 ('the 2003 Regulations'), the relevant contribution of each of the Respondents to the costs of those works is limited to £250 unless the consultation requirements have been either (a) complied with in relation to the qualifying works or (b) dispensed with by the Tribunal.
- 5 The Applicant initiated the consultation procedure by sending a notice of intention to carry out the repair work to each of the Respondents, pursuant to paragraph 8 of Schedule 4 to the 2003 Regulations.
- 6 The Applicant also sought three quotations for carrying out the repair works – from Schindler, the manufacturers of the lift in question, and from two other contractors. However, the two other contractors advised that, because of the unique Schindler programming systems, the necessary work could only be carried out by Schindler.
- 7 In response to the notice of intention, three of the Respondents indicated that for health reasons they were unable to use the stairs to access their apartments and required the use of the lift. Until the lift was repaired, they would effectively be housebound.
- 8 The Applicant therefore made the present application to seek a determination to dispense with the consultation requirements. The Applicant also requested that the application be determined on the basis of written representations and without an oral hearing.
- 9 The Tribunal copied the application to each of the Respondents and invited them to indicate whether they consented to the dispensation. Two Respondents replied and both confirmed their consent. One referred to the need for the relevant works to be carried out as a matter of urgency. Neither objected to the application being determined without an oral hearing.

- 10 In the circumstances the Tribunal was of the view that it was appropriate to proceed to determine the application on the basis of written representations and without a hearing.
- 11 The only issue for determination is whether the Tribunal should dispense with the consultation requirements.
- 12 In accordance with section 20ZA(1) of the 1985 Act, the Tribunal may dispense with the consultation requirements 'if satisfied that it is reasonable' to do so.
- 13 It is important to note that the present application is concerned only with the issue of whether it is reasonable to dispense with the consultation requirements so that the Applicant can in principle recover from each of the Respondents his/her full share of the costs of the proposed works to the lift. A determination by the Tribunal that the consultation requirements should be dispensed with does not preclude an application under section 27A of the 1985 Act to determine whether the relevant contribution is payable at all or whether the relevant contribution is reasonable.
- 14 The Tribunal is satisfied that it is reasonable to dispense with the consultation requirements in the circumstances of the present case, for the following reasons:
- (i) The power to dispense with the consultation requirements was included in the 1985 Act primarily to provide for circumstances where urgent action is required.
 - (ii) In the circumstances of the present case the proposed works are urgent: the repairs to the lift are necessary to provide access to the apartments of the Respondents. If the full consultation procedure were followed, it is likely that it would be at least three months before the work on the lift could begin.
 - (iii) None of the Respondents has objected to the dispensation.
- 15 The Tribunal therefore determines that the consultation requirements are dispensed with in relation to the proposed works to the roof of the block containing the subject property.

Signed 

Professor Nigel P Gravells

Date **10 JUN 2013**