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LEASEHOLD VALUATION TRIBUNAL

Case Reference: LON/00AE/LDC/2012/0156

DECISION of the LEASEHOLD VALUATION TRIBUNAL on an application under Section 20ZA(1) of the Landlord and Tenant Act 1985

Property: 250 Willesden Lane, London NW2 5RE

Applicant: G.M. Property Investments Ltd (Landlord)
Represented by: Mr M. Ross, Property Manager, Robert Irving and Burns (Managing Agents)

Also Present: Ms C. Tyndall, Assistant Property Manager; Robert Irving and Burns.

Respondent: Ms M. Coleman, and the other Leaseholders of Flats 1, 2, 3, 4, and 5, 250 Willesden Lane (Leaseholders)

Represented by: No appearance

Date of Hearing: 9th January 2013.

Date of Decision: 9th January 2013

Tribunal: Mr L.W. G. Robson LLB (Hons)
Mr T. Sennett MA FCIEH
Ms S. Wilby

Preliminary

1. The Applicant seeks dispensation from all/some of the consultation requirements imposed by Section 20ZA of the Landlord and Tenant Act 1985 (the Act). An extract from the relevant legislation is attached as Appendix 1 below.
2. The Applicant applied on 13th December 2012 in relation to urgent roof works. The Tribunal gave Directions on 19th December 2012, relying upon the Applicant's statement made in the application, requiring no further documents prior to the hearing.

Hearing


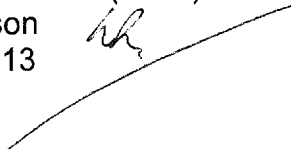
3. At the hearing, Mr Ross for the Applicant gave evidence that he had personally served copies of the Application upon each of the Respondents by personally posting them through the letter box at the property on the evening of 20th December 2012. In view of the urgency he had not considered it useful to also send a copy by post to Ms Coleman, who had a correspondence address in Canada. The lessees of Flats 2, 4 and 5 lived at the property. The lessee of Flat 3 was particularly affected by the leak in the roof. Her managing agents had approached the Applicant about the matter on 23rd November 2012, and informed Mr Ross that the living conditions for the sub-tenant were quite unpleasant. The contractor had been proposed by the lessee's agents.
4. In answer to questions from the Tribunal, Mr Ross gave evidence that the contribution to be made by each lessee was 20% of the total cost. Originally, the work intended related mainly to replacing gutters, and the estimated cost was below the £250 per unit limit specified for works requiring notice under Section 20 of the Act. It had reasonably been expected that the work would deal with the problem. However the roof was old, and after the work had been done, the contractor reported concerns about the valley gutter. Mr Ross had inspected the roof and he agreed that the valley gutter needed replacement. The quotation from the contractor dated 12th December 2012 for the additional work (£1,260 plus VAT) would bring the cost above the £250 limit, estimated at £302 per flat. He was also concerned from his inspection that other work might be found necessary once the roof timbers were exposed. He decided it was prudent to make an application for dispensation under Section 20ZA of the Act, as the delay involved in following the statutory consultation procedure would be approximately 2-3 months. The cost of re-erecting the scaffolding alone would cost the lessees a further £400-500. The contractor had agreed to leave the scaffolding in place without charge until today, but would start to charge thereafter. He handed up a copy of the quotation dated 12th December 2012. He had not sought other quotations for the work.
5. None of the Respondents attended or were represented. Mr Ross stated that he had had no reply from any Respondent over the application.

Decision

6. The Tribunal noted that essentially its function under Section 20ZA was to decide if the work was urgent, and if it was reasonable to grant dispensation from the full consultation requirements of Section 20. It could not decide upon matters relating to cost and payability pursuant Section 27A of the Act. Any party is free to make an application under Section 27A.

7. The Tribunal considered the evidence and submissions. Acting upon the terms of the quotation from Lowfield (Builders) dated 12th December 2012 (noted above), **it decided that it was appropriate to grant the application and order dispensation subject to a condition.** While it had concerns that Ms Coleman particularly might still be unaware of the application, it considered that the urgency of the case over-rode that consideration. The delay required to satisfy the requirements of Section 20 would impose significant extra cost upon the lessees, and the occupant of Flat 3 would have to continue living with a leaking roof. Further, water damage might spread further within the building, and trigger other problems on an old roof.
8. The condition imposed upon the order is that the Applicant will send a copy of the application and this order by airmail to Ms Coleman as the lessee of Flat 1 at her address in Canada within 7 days of receipt of this Order, and produce a copy of the covering letter to the Tribunal in any further application in this matter.
9. The parties should note that if it is decided that any structural work is required on the roof, a further Section 20 procedure, or application for dispensation in case of urgency, should be made to the Tribunal.

Chairman: L. W. G. Robson LLB (Hons)
Signed: Lancelot Robson
Dated: 9th January 2013

Appendix 1

Landlord & Tenant Act 1985

Section 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 qualifying works or qualifying long term agreement, the tribunal may make the determination if satisfied that it is reasonable to dispense with the requirements.