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LONDON RENT ASSESSMENT PANEL

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

Case Reference: LON/00BK/LDC/2013/0007

Premises: 1 Hyde Park Street, London W2 2JW

Applicant: The Church Commissioners for England

Representative: Knight Frank LLP (Managing Agents)

Respondent(s): The lessees of the various flats whose details are recorded in the schedule to the application form

Representative: None

Leasehold Valuation Tribunal: Mr L Rahman

Date of decision: 18.2.13

Decisions of the Tribunal

- (1) The Tribunal determines it is reasonable to dispense with the relevant consultation requirements.

The application

1. An application, dated 8.1.13, has been made under s.20ZA of the Landlord and Tenant Act 1985 ("the 1985 Act") for a determination that all or any of the consultation requirements in relation to works to be undertaken by the Applicant may be dispensed with if the Tribunal was satisfied it was reasonable to dispense with such requirements.
2. The Applicant confirmed it was happy for the application to be dealt with on paper if the Tribunal thought it appropriate. There was a Pre Trial Review on 11.1.13. The Tribunal considered that if none of the Respondents requested an oral hearing then it would be appropriate for the application to be dealt with in this manner (without a hearing). None of the parties requested an oral hearing so the matter was listed to be dealt with on paper.

The background

3. The property which is the subject of this application is a Grade II listed building, comprised of 2 sections, containing 15 flats in total. One section of the building was constructed circa 1850, the other, circa 1930. The building has 8 upper floors and a basement.
4. The Applicant is currently completing a major works programme that was subject to a statutory consultation process. The works included the following; render and brickwork repairs, preparation of decorative surfaces by paint stripping (to basement, ground and first floors), external decorations, window repairs, roof repairs, supporting steel works repairs to external fire escape, installation of York stone pavers to light well area, installation of edge protection to the roof, and repair and cleaning of inlet gutters, gully, and rainwater pipes. The estimated cost was £396,778 (inclusive of vat). The works commenced in July 2012 and were due for completion in February 2013.
5. Whilst completing that work further defects have been revealed that have required additional work at an estimated cost of up to £72,000 (inclusive of vat). The additional works are set out in detail on page 17 of the bundle. The biggest items of the additional costs relate to the dormers (stripping, removing and replacing all rotten timber and defective insulation and supplying and installing new insulation and recovering in lead, at a cost of £32,366.40), the internal repairs to the plaster surfaces below the dormer and decorations following remedial repairs (£6,000.00), roof asphalt repairs (£6,000.00), additional 4 weeks scaffold hire cost due to the additional works (£7,560.00),

and the additional "contractor prelims" due to the extension of time (£5,000.00). There are various other works referred to at page 17.

6. The Respondents would each be responsible for the proportion required under the terms of their leases.

The Applicant's case

7. The Applicant states the additional works only became apparent once the contractors had proper access and realised the true extent of the repairs.
8. Pursuant to the Tribunals Directions dated 11.1.13, the Applicant sent, by 18.1.13, copies of the application form and the Tribunals Directions to each of the Respondents. The Applicant confirms it did not receive any response from any of the Respondents by 6.2.13 (as per the Directions).

The Respondent's case

9. No representations have been received from the Respondents, nor any objection to the application, despite the Directions issued by the Tribunal at the Pre-Trial Review.

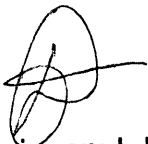
The Tribunal's decision

10. The Tribunal can only make a determination to dispense with the consultation procedure if it is satisfied that it is reasonable to do so. The purpose of the procedure under s.20 of the 1985 Act is to ensure that the long leaseholders do not suffer any prejudice when they are asked to pay for works that cost in excess of £250 per flat. The legislation recognises that there may be instances of urgency where the lengthy consultation process, designed to give the long leaseholders full information about the works and to enable them to make comments and propose a contractor to be asked to provide a quote, cannot be followed and that is the reason for the dispensation provisions under s.20ZA of the 1985 Act.
11. This is an unopposed application. It is unclear what inspections were carried out prior to the original works commencing. However, on balance, the Tribunal accepts that only upon closer examination, the true extent of the repairs became apparent. The photographs provided by the Applicant (page 54 onwards) show the nature and the extent of some of the repairs that are necessary. The contractors are already on site and the scaffolding is already up, therefore any further delay or attempts to obtain further quotes would inevitably add to the overall costs in the long run. Whilst not strictly relevant, the Tribunal note the Applicant had obtained 4 quotes for the original works and had opted for the cheapest option.

12. For the reasons given, the Tribunal is satisfied it is reasonable to dispense with the relevant consultation requirements contained in s.20 of the 1984 Act.
13. The dispensation of any or all of the requirements of s.20 of the 1985 Act does not indicate that the cost itself is reasonable or that the work / service is of a reasonable standard. The Respondents may, if they wish, make a subsequent application under s.27A of the 1985 Act, challenging either the need or quality of such works, the recoverability of the cost under the lease, or the level of the cost.

Application under s.20C and refund of fees

14. The Applicant has not made an application under Regulation 9 of the Leasehold Valuation Tribunals (Procedure) (England) Regulations 2003 for a refund of the fees that had been paid in respect of the application. The Respondents have not applied for an order under section 20C of the 1985. Accordingly, no orders are made.



Chairman: L Rahman

Date: 18.2.13