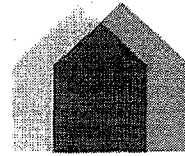


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Residential  
Property  
TRIBUNAL SERVICE

**RESIDENTIAL PROPERTY TRIBUNAL SERVICE  
LEASEHOLD VALUATION TRIBUNAL for the  
LONDON RENT ASSESSMENT PANEL**

**LON/00AG/LDC/2007/0044**

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**Premises:** FLats 1,3,4,5,7 and 8 37-41 Gower Street London  
WC1E 6HH

**Applicants:** (1) Joseph Ackerman  
(2) Naomi Ackerman

**Represented by:**

**Respondents:** (1) Mr Dismoor  
(2) Paul Mooney  
(3) Glyn Brangwyn Boyd Harte  
(4) Chris Chistodolou  
(5) Mr and Mrs Evans  
(6) Dreamgate Properties Ltd

**Represented by:**

**Tribunal:** Ms Daley  
Dr Fox

**Date of Hearing:** 28/08/07

**Paper Determination**

**Date of Decision:** 28 August 2007

## **Application**

1. The Applicant seeks dispensation from all or some of the consultation requirements imposed by section 20 of the Landlord and Tenant Act 2005. The Applicant proposes to carry out an upgrade of the fire alarm system and emergency lighting at 37-41 Gower Street London WC1 HH ("The Premises"). An application was received by the Tribunal on 19 July 2007
2. On 31 July 2007 directions were given by the Tribunal that unless a hearing were requested the matter would be dealt with on the paper track.
3. The Respondents were directed to write to the Tribunal indicating whether they consented to the application or opposed the application and The Applicant was directed to sent a bundle of documents to the Tribunal to include a statement, setting out grounds for the application and stating what consultation may have taken place and why it is considered inappropriate to go through the full consultation requirements. These documents were to be sent to the Tribunal.

## **The issue**

4. The only issue for the Tribunal is whether or not it is reasonable to dispense with the consultation requirements. Any issue concerning the reasonableness, or payability of the service charges, is not determined by this Tribunal.

## **The Law**

5. S20ZA 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 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.
  - (2) In section 20 and this section—

"qualifying works" means works on a building or any other premises, and

"qualifying long term agreement" means (subject to subsection (3)) an agreement entered into, by or on behalf of the landlord or a superior landlord, for a term of more than twelve months.

- (3) The Secretary of State may by regulations provide that an agreement is not a qualifying long term agreement—
  - (a) if it is an agreement of a description prescribed by the regulations, or
  - (b) in any circumstances so prescribed.
- (4) In section 20 and this section "the consultation requirements" means requirements prescribed by regulations made by the Secretary of State.
- (5) Regulations under subsection (4) may in particular include provision requiring the landlord—
  - (a) to provide details of proposed works or agreements to tenants or the recognised tenants' association representing them,
  - (b) to obtain estimates for proposed works or agreements,
  - (c) to invite tenants or the recognised tenants' association to propose the names of persons from whom the landlord should try to obtain other estimates,
  - (d) to have regard to observations made by tenants or the recognised tenants' association in relation to proposed works or agreements and estimates, and
  - (e) to give reasons in prescribed circumstances for carrying out works or entering into agreements.
- (6) Regulations under section 20 or this section—
  - (a) may make provision generally or only in relation to specific cases, and
  - (b) may make different provision for different purposes.
- (7) Regulations under section 20 or this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.[...]

### **The Documents**

6. The Tribunal were provided with the following documents:-
  - (i) a Statement of full grounds of the Application from the Applicant

### **The paper determination**

7. The Tribunal considered the Grounds of the Application, which stated that the Applicant had been served with an Enforcement Notice issued by the London Fire & Emergency Planning Authority pursuant to Article 30 of the Regulatory Reform( Fire Safety) Order 2005. The notice dated 11 May 2007 contained a Schedule, which set out a number of items, which required attention by the Applicants such as providing adequate illumination in the event of power failure. And The installation and maintenance of emergency escape lighting to BS5266 standard. The Notice stated -: "*the Steps must be taken by 16th July 2007(or such extension if granted by the Authority)*".
8. The Applicants in their application stated, that "Although the enforcement notice was originally received on or about 11 May 2007, it did take the applicant some time to take quotations. As such, by the time the quotations arrived, the applicant was unable to comply with the requirements of the Act. It is for this reason that the Applicant applies for dispensation."
9. In the statement in support of their application the Applicants states that they instructed their managing agent to obtain two quotations from two fire Alarm/Fire companies and these are also attached. One quotation was from WLS in the sum of £6462.50 and the other from Fisk Fire Group was for £4,412,13. The Applicant was proposing to instruct Fisk Fire Group.
10. No information was provided by the Applicants as to what consultation had taken place and the Applicant merely stated, that "As these works are required to be carried out urgently pursuant to a statutory requirement there is insufficient time to go through the normal consultation process in accordance with section 20 of the Landlord and Tenant Act 1985".

Copies of the Application, together with the Direction of the Tribunal, were sent to the respondents, on 1 August 2007 by the Tribunal.

11. Only one Respondent, Mr Chris Christodolu of flat 5, contacted the Tribunal and spoke to tribunal clerk Ms Sanz. Ms Sanz, made a note of her conversation, with this Respondent, which stated that he had only just come back from abroad and was happy for the Tribunal to dispense with the procedure. This Conversation, was not followed up by letter from the Respondent, and no other Respondent wrote setting out their views on the application to dispense with the consultation requirements.

### **The Determination of the Tribunal**

12. In accordance with section 20Za The Tribunal considered whether it was reasonable to dispense with consultation. In reaching its decision the Tribunal were concerned, that other than reciting that the work was urgent, and needed to be carried out, to comply with a statutory requirements, the Applicants failed to set out the steps that they had taken to consult, and the steps that they had taken to obtain quotations between 11 May 2007 and the 17 July 2007.
13. The Applicants also did not provide any information about whether they had asked for an extension to comply with the Notice. The Tribunal were thus concerned, whether the urgency had in part been created by delay on the part of the Applicants.
14. In reaching a decision, whether to grant dispensation the tribunal carries out a balancing act between the need to consult, and the urgency of the work. The Tribunal is satisfied that, given the nature of the work and the potential impact of the delay on the health and safety of the Respondent tenants, the work is urgently required and it is for this reason that the Tribunal have determined that it is reasonable to grant a dispensation.

Chairman.....*M. O. Kelly*.....

Date.....*28-8-07*.....