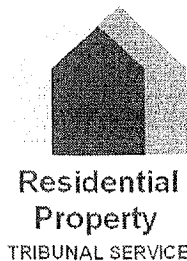


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RESIDENTIAL PROPERTY TRIBUNAL SERVICE
DECISION OF THE LEASEHOLD VALUATION TRIBUNAL for the
LONDON RENT ASSESSMENT PANEL

LANDLORD AND TENANT ACT 1985 SECTION 20ZA

LON/00AU/LDC/2010/0125

Property: 214 Seven Sisters Road, London N4 3NX

Applicants: Noroc Investments Ltd

Respondents: O Wakil (First Floor Flat), B Ward (Second Floor Flat), M C and K P Hart (Third Floor Flat)

The Tribunal: Mr Adrian Jack (Chairman), Ms S Coughlin MCIEH and Ms R Emblin

Procedural

1. This is an application by the landlord for a dispensation with the requirements for a consultation under section 20 of the Landlord and Tenant Act 1985 in respect of works to the roof.
2. Directions were given on 2nd December 2010 and these were substantially complied with. Two of the flat-owners, Ms Ward and the Harts have indicated that they support the landlord's application. The third tenant, O Wakil, has not responded.
3. The Tribunal held a hearing on 20th December 2010.
4. Mr Brickman, the director of Brickman Yale, the managing agents, had indicated that he had just been released from hospital and would not be able to attend. He asked us to decide the application in his absence. None of the tenants appeared.

The facts

5. The property consists of commercial premises on the ground floor with residential flats on the floors above.
6. In early 2009 the landlord commenced a consultation under section 20 of the Landlord and Tenant Act 1985 for major works including to the flat roof over the commercial premises. The consultation was completed and contractors appointed to carry out the works.
7. In the course of opening up the roof it became apparent that the works required were much more substantial than had initially been envisaged. The landlord therefore considered that there was a need for an application under section 20ZA of the 1985 Act for dispensation from the need to consult in relation to the further works.
8. There is an urgency about the current case because acroprops are being used to hold up the roof and part of the commercial premises can accordingly not be used.

The issues and decision

9. Under section 20 of the Landlord and Tenant Act 1985 a landlord intending to carry out works costing more than £250 per flat is obliged to carry out a two stage consultation exercise on pain of being unable to recover more than £250 from each flat-owner.
10. Section 20ZA of the 1985 Act gives the Tribunal the power to dispense with these requirements, if it is "satisfied that it is reasonable to dispense with the requirements."
11. One of the matters which the Tribunal does not determine on a section 20ZA application is whether the cost of the works is either payable in principle or whether the amount claimed is reasonable. (Thus there is not before us the question of the extent to which the proposed works fall within the proviso to paragraph 1 of the Fifth Schedule to the lease, and are thus not recoverable against the residential tenants.) These matters are not taken into account in making the determination.
12. In exercising its discretion whether to grant the section 20ZA application the Tribunal asks itself whether the cost and delay associated with a section 20 consultation would bring any material benefit to the other tenants in the block or if there is an other reason for holding a further section 20 consultation.
13. In our judgment there is not. A proper section 20 consultation has been carried out. The fact that more works are required as a result of opening up the roof means that there is urgency.
14. The Tribunal has considered whether there would actually be a need to carry out a further section 20 consultation, if the section 20ZA application were refused. In the absence of Mr Brickman, the surveyor with conduct of the matter, we have difficulty determining this matter. The specification is drawn in relation to the roof and it is not clear why a variation would not be justified by the existing section 20 consultation. Nonetheless the Tribunal will proceed on the basis that the landlord reasonably considers that a further section 20 consultation would be needed in the absence of a section 20ZA dispensation. The

Tribunal has particularly in mind that two of the tenants support the current application and the other tenant has not responded.

15. In these circumstances we dispense with the requirement to consult in accordance with section 20 of the 1985 Act.
16. No party made any applications in respect of costs. In these circumstances we make no order in respect of the fees payable to the Tribunal.

DECISION

The Tribunal grants dispensation from the requirements of section 20 of the Landlord and Tenant Act 1985 in respect of the proposed major works, as varied. The Tribunal makes no order in respect of the fees payable to the Tribunal in respect of this application.



Tribunal: Adrian Jack, Chairman
20th December 2010