



**LONDON RENT ASSESSMENT PANEL  
LEASEHOLD VALUATION TRIBUNAL**

**Case Reference: LON/00AH/LDC/2012/0084 (SS)**

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

**Property:** 109 Selhurst Road, Selhurst, London SE25 6LH

**Applicant:** Leasecon Engineering Associates Limited (Landlord)  
**Represented by:** Dr B. McEvoy; MPM, Project Manager

**Respondents:** Mr K. Manji (Flat 1)  
Mr A. King (Flat 2)  
Mr H. Whitcombe (Flat 3)  
Mr D. Butler (Flat 4)

**Also Present:** Mr C. Brown (Representing Mr King)

**Date of Hearing:** 15<sup>th</sup> August 2012

**Date of Decision:** 23rd August 2012

**Tribunal:** Mr L.W. G. Robson LLB (Hons)  
Mr P. P. Tobin FRICS MCI Arb

**Decision**

- (1) The Tribunal decided to make the order requested for dispensation from the requirements of Section 20ZA of the Landlord and Tenant Act 1985. This was notified to the parties immediately after the hearing on 15<sup>th</sup> August 2012, with a fully reasoned decision to follow.
- (2) The Tribunal made the other decisions noted below.

**Preliminary**

1. The Applicant seeks dispensation from all/some of the consultation requirements imposed by Section 20ZA of the Landlord and Tenant Act 1985 by virtue of a specimen lease (the Lease) relating to Flat 1 dated 18<sup>th</sup> March 1986. An extract from the relevant legislation is attached as Appendix 1 below.

2. The Applicant applied on 17th July 2012 in relation to urgent additional major works relating to a new mastic asphalt roof covering (and associated works to a parapet wall), dry rot in the communal hallway, and additional scaffolding hire. No Leaseholders opposed the application, but Mr King objected to contributing to the fee for this Application (£150). Directions were given by the Tribunal on 20<sup>th</sup> July 2012 for a short hearing on 15<sup>th</sup> August 2012 in view of the urgency of the application.

### Hearing

3. The Applicant submitted that this was a Victorian house converted into 4 flats. A major works contract for repairs to the main roof, flat roofs to the rear of the property, external rendering, internal repairs damp-proofing and redecoration of the communal hallway was currently in progress. A full Section 20 consultation process had been carried out. The Notice of Intention was dated 17<sup>th</sup> February 2011, and the Statement of Estimates was dated 20<sup>th</sup> December 2011. There had been delays in obtaining funds from lessees, and notices had been reserved. Work started on 12th June 2012. The original contract price was £31,665 excluding VAT. After erection of the scaffolding and opening up the works, inspection revealed that further defects were present, e.g. missing lintels over windows and problems with the main roof. The Applicant had attempted to reduce costs elsewhere on the project to deal with these items, however three further costly items had been identified;
  - a) a new mastic asphalt roof covering (and associated works to a parapet wall), estimated to cost £2,800 excluding VAT,
  - b) dry rot in the communal hallway estimated to cost £2,120 excluding VAT, and
  - c) additional scaffolding hire estimated to cost £400 excluding VAT.
4. The landlord's covenant at Clause 5(d) and Paragraph 1(a) of the Fourth Schedule to the Lease, was to repair and renew the common parts, structure and main timbers.
5. In answer to questions, the Applicant agreed with the Tribunal that a full survey had not been carried out prior to the works being specified. The property had a number of problems, and the landlord's objective was to break down the costs into manageable parts to assist tenants. Dr McEvoy had drawn up the specification. He considered that without opening up the work, it would not have been possible to identify the additional work prior to commencement. He also considered that the Lease entitled the landlord to collect the costs of supervision and administration costs from the leaseholders.
6. The Applicant submitted that the work was urgent, that it had attempted to consult so far as reasonably possible in the circumstances, and that

dispensation should be granted. Photographs of the problems found were included in the bundle.

7. The Respondent Mr King agreed that the work was urgent and that it was cost effective to get on with it. He disputed that the additional defects were not discoverable. He submitted that a full survey should have been done. The Applicant should pay for the additional costs and the cost of this Application.

### **Decision**

8. 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 payment in this application, although these formed the bulk of the Respondent's concerns.
9. The Tribunal considered the evidence and submissions. It had the benefit of photographs taken by the Applicant. Neither side disputed that the work needed to be done urgently. The Tribunal agreed with those views. The photographs clearly showed signs of dry rot, and the state of the mastic roof covering, and the crumbling bricks on the parapet wall. The Tribunal did not accept the Respondents' submission that the additional work could reasonably have been identified earlier with a visual inspection without opening up the building, and thus by implication the Respondent's submission that the Applicant should be obliged to bear the costs of making the Application. The Tribunal decided to grant the dispensation sought under Section 20ZA.
10. In coming to its decision, the Tribunal does not seek to minimise the Respondent's' concerns over the cost and reasonableness of the works, nor does its decision in any way prejudge those issues. Either party is free to make an application to the Tribunal under Section 27A, although the parties should try to agree or reduce the issues in contention between them by discussion or mediation if at all possible.

Chairman: L. W. G. Robson LLB (Hons)  
Signed: Lancelot Robson  
Dated: 23rd August 2012

## **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.