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DECISION OF THE LEASEHOLD VALUATION TRIBUNAL

LANDLORD AND TENANT ACT 1985 – SECTION 20ZA

Ref: LON/00AL/LDC/2012/0022

Property: 13/14 Gloucester Square, London, W2 2TB

Applicant: 13/14 Gloucester Square Limited

Applicant's Representative: Gordon & Co

Respondents: Dr R C Pollock (Flat 1)
Mr M Vickers (Flat 2)
Mr H A Howard (Flat 3)
Mr A B and Mrs P H Fisher (Flat 4)
Crystal Lake Co Inc. (Flat 5)
Ms N Grinina (Flat 6)
Darrien International Ltd (Flat 7)
Mr and Mrs M Varzi (Flat 8)

Date of decision: 11th April 2012

Tribunal: Mrs H C Bowers (Chairman),
Mr M Martynski

Decision

1.) The Tribunal determines that it is reasonable to dispense with the requirements to consult under section 20 of the Landlord and Tenant Act 1985.

Introduction

2.) By an application dated 6th March 2012, the Applicant seeks a dispensation of all or any of the consultation requirements in section 20 of the Landlord and Tenant Act 1985 (the Act).

3.) A paper pre trial review was held and Directions were issued on 12th March 2012. It was directed that this matter could be allocated to the Paper Track, unless either party requested a hearing. There was no request for a hearing and therefore this matter was considered on the basis of the papers submitted to the Tribunal.

Background

4.) The Applicant is the landlord of 13/14 Gloucester Square, London, W2 2TB (the subject property). In the application the subject property is described as a converted block of eight, self-contained flats in a five-storey building dating from around 1850. The Respondents in this matter are the leaseholders in the subject property and are identified in the preamble.

5.) The application describes the qualifying works as *“scaffolding needs to be installed in order to properly inspect otherwise not reachable areas of the roof in order to carry out repairs to loose masonry subject property is suffering loose masonry and a crumbling chimney stack. The purpose of the work is to eliminate risk of accidents due to loose masonry and to eliminate source of serious water ingress to the top floor flat number eight.”*.

6. The application seeks a dispensation for all or any of the consultation requirements. In support of the application it was explained that there is a *“risk involved in the loose items of masonry on the roof, which may cause serious*

injury upon falling from the roof. Additionally, the top floor flat is suffering continuous damage and lessees are concerned about their health due to damp. As a result, the management company would like to proceed with the necessary repairs as soon as possible.”.

7.) The initial section 20 notice of intent to carry out works has been issued on 5th March 2012.

8.) There was an earlier decision of this Tribunal dated 11th January 2011 that granted dispensation of the consultation process. This dispensation was a result of falling masonry at the subject building in November 2010.

The Law

9.) Section 20ZA of the Landlord and Tenant Act 1985 states:

“(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 agreements, the tribunal may make the determination if satisfied that it is reasonable to dispense with the requirements.”

Representations

10.) A trial bundle was submitted with relevant paperwork from all the relevant parties in this case.

Applicant’s Representations

11.) In the Applicant's statement of case it was explained there has been recurring water ingress to Flat 8 and although minor repairs have been carried out these have been ineffective. In January 2012 it was agreed that the chimney would be rebuilt and a quotation was obtained from SL Interiors for a sum of £12,450 plus VAT for this work. However, it then transpired that the required work was more extensive and it would be necessary to erect scaffolding to ascertain the full extent of the work required. There appears to be two quotes for scaffolding. The first is undated and is from Varzi Real

Estate Limited, located at Flat 8 in the subject property and is for £7,525 plus VAT. The second quote is addressed to Mr Varzi of Flat 8 and is dated 20th February 2012 from Aspect and is for £8,380 plus VAT. It was explained that it would not be possible to provide a quotation for the remedial works until the full problem has been investigated.

12.) The Applicant explains that no work has been carried out to date and that the initial section 20 notice of intention has been served on all of the Respondent leaseholders. It is stated that the current issue is distinct from the earlier section 20ZA dispensation, which related to one small cornice area.

13.) Included in the bundle are a number of photographs that are slightly indistinct and appear to show cracked and loose masonry at roof level.

Respondents' Representations

14.) Included in the bundle is a copy of an email from Jinny Chudasama of National Bank of Kuwait (International) Plc dated 16th March 2012. This email states that the owner of Flat 5 has no objection to the works being carried out. There is no other document to indicate the capacity in which Ms Chudasama is acting for the leaseholders of Flat 5.

15.) There is an email from Medhi Varzi the leaseholder of Flat 8 dated 21st March 2012. This email states that there has been damp ingress to Flat 8 for the past five years. Additionally, it is stated that there have been problems with falling masonry and this could be dangerous if other masonry was to fall onto the pavement below.

Decision

16.) The Tribunal noted that other than the correspondence from Ms Chudasama and from Mr Varzi, the Respondents have not objected to the application for dispensation.

17.) The work suggested in the application is of an urgent nature required to ascertain the extent of the problems at the property. The Tribunal has had consideration to the possibility that falling masonry could cause harm to people or property. In these circumstances it would appear to the Tribunal that any added time delays caused by a full consultation process would not be beneficial to the leaseholders in this development or potentially to members of the public. Accordingly, the Tribunal determines that it is reasonable to dispense with the requirements to consult under section 20 of the Landlord and Tenant Act 1985 in respect of the erection of scaffolding at the subject property.

18.) In reaching this conclusion the Tribunal is mindful that this decision should not prevent the leaseholders from making any further application in respect of the question as to whether the cost of the works are reasonably incurred, that the works are to a reasonable standard and any question in respect of the liability to pay service charges in respect of these works.



Chairman
Helen Bowers

11th April 2012