

S.20ZA Landlord & Tenant Act 1985

DECISION & REASONS

Case Number:	CHI/43UG/LDC/2010/0023
Property:	Nos. 1-10 Imperial House, Station Parade, Virginia Water, Surrey GU25 4AA
Applicant:	A2 Dominion Housing Group
Respondent:	The lessees of the property as per schedule
Date of Application:	Received on 22 July 2010
Date of Consideration:	4 October 2010
Date of This Determination	16 October 2010
Tribunal Members:	Mr. R. A. Wilkey FRICS (Valuer/Chairman) Mr. J. B. Tarling MCMI (Lawyer Member)

DECISION

1. The Tribunal determines to dispense with all of the consultation requirements in relation to the qualifying works the subject of this application described as repair works to the roof of the building

NOTICE

2. Following formal notice given in Directions dated 28 July 2010 the Tribunal proceeded to determine the case on the basis of only written representations without a formal oral hearing.

REASONS

INTRODUCTION

3. This is an application by the freeholders of the block, in accordance with S.20ZA of the Landlord & Tenant Act 1985, for dispensation of all or any of the consultation requirements in respect of qualifying works.

THE LAW

4. The statutory provisions primarily relevant to this application are to be found in S.20ZA of the Landlord & Tenant Act 1985 as amended (the Act). The Tribunal has of course had regard to the whole of the relevant sections of the Act and the appropriate regulations or statutory instruments when making its decision, but here sets out a sufficient extract or summary from each to assist the parties in reading this decision.
5. S.20 of the Act provides that where there are qualifying works, the relevant contributions of tenants are limited unless the consultation requirements have been either complied with or dispensed with by the determination of a Leasehold Valuation Tribunal.
6. The definitions of the various terms used within S.20 e.g. consultation reports, qualifying works etc., are set out in that Section.
7. In order for the specified consultation requirements to be necessary, the relevant costs of the qualifying work have to exceed an appropriate amount which is set by Regulation and at the date of the application is £250 per lessee.
8. Details of the consultation requirements are contained within a statutory instrument entitled Service Charges (Consultation Requirements) (England) Regulations 2003, SI2003/1987. These requirements include amongst other things

a formal notice procedure, obtaining estimates and provisions whereby a lessee may make comments about the proposed work and nominate a contractor.

9. S.20ZA provides for a Leasehold Valuation Tribunal to dispense with all or any of the consultation requirements if it is satisfied that it is reasonable to dispense with them. There is no specific requirement for the work to be identified as urgent or special in any way. It is simply the test of reasonableness for dispensation that has to be applied (subsection (1)).

THE LEASE

10. The Tribunal was provided with a copy of lease for Flat 1 Imperial House dated 28 March 1984 between British Airways Staff Housing Society Limited (the Lessor) and Paul John Adams (the Lessee). The lease was assigned to Selby John Ludolf by a Deed of Assignment dated 7 July 1994
11. There are provisions for the landlord to *"maintain repair redecorate and renew the roof, foundations and main structure of the building and all external parts..."*
12. The Tribunal has not interpreted the lease to determine whether or in what proportion a service charge may be levied on the tenant.
13. There were no matters raised by either of the parties in respect of the interpretation of the lease.

BACKGROUND & REPRESENTATIONS

14. On 28 July 2010 the Tribunal issued directions for the conduct of the case. In view of the urgency expressed in the application, the matter was listed to be dealt with on the paper track.
15. The application before the Tribunal relates to two invoices in the sum of £2,980 (excluding VAT) and £945 (excluding VAT)
16. The first invoice is in respect of the following works *"Erect two in number fixed scaffold towers to front elevation. Strip off tiles 3 metres wide and full length of roof i.e. eave to ridge, overlay existing felt with new. Supply new battens, relay tiles, cut out joints to lead flashings and refix and repaint. Cut out joints to ridge and repaint in mortar. Supply 4 in number roof vents to both sides of roof."*

17. The lessees were advised of the extent and cost of these works by letter dated 29 June 2010
18. During the course of the above works it became apparent that further work was required.
19. The second invoice relates to this additional work which may be summarised as the provision of a new lead dressing over the parapet wall. This was considered essential to ensure that the roof area is made watertight and only became apparent when a proper inspection was made with the aid of scaffolding.
20. The Freeholder submitted with the application photographs of the roof areas involved together with a copy of a Qualifying Long Term Agreement. There had been full consultation in respect of this Agreement. It provided that work of this nature will be carried out by Connaught plc

INSPECTION

21. Imperial House is a detached purpose built block of 10 self-contained flats built in 1984
22. The Tribunal attended at the property and viewed the outside from ground level. The inspection of the relevant section of roof was very limited.
23. An attempt was made to inspect the interior of the flats on the top floor which have been affected by the water penetration. Unfortunately, none of the lessees or occupiers of the top floor flats were at home.
24. No representative of the Freeholder was present at the inspection.

CONSIDERATION

25. Notwithstanding the limitations of the inspection, it was clear from the supplied documents and photographs that the work had to be done. The additional work only became apparent when a proper inspection could be made with the aid of scaffolding.
26. None of the lessees had responded to the Tribunal's Directions nor had made any representations in respect of the works.

THE DECISION

27. Taking all the circumstance into account and for the reasons stated above, the Tribunal is satisfied that it is fair and reasonable in all the circumstances for it to grant dispensation from all the requirements of Section 20(1) of the Act in respect of all the works.
28. The Tribunal makes it clear that this dispensation relates solely to the requirement that would otherwise exist to carry out the procedures in accordance with Section 20 of the Act. It does not prevent an application being made by the landlord or any of the tenants under Section 27A of the Act to deal with the liability to pay the resultant service charges. It simply removes the cap on the recoverable service charges that Section 20 would otherwise have placed upon them

Dated 16 October 2010

R.A.Wilkey

Roger A. Wilkey FRICS

Valuer/Chairman