

THE RESIDENTIAL PROPERTY TRIBUNAL SERVICE

**DECISION OF THE SOUTHERN LEASEHOLD VALUATION TRIBUNAL
ON AN APPLICATION UNDER SECTION 20ZA OF THE LANDLORD AND
TENANT ACT 1985**

**21-32 RAEURN GROVE, ST JOHNS HILL ROAD, WOKING, SURREY
GU21 7FD**

Applicant: HANOVER FRIENDS LTD

Respondents: THE LEASEHOLDERS

Date of hearing: 8 November 2006

Date of inspection: 8 November 2006

Appearances: Mrs Anne Everson (Housing Officer)
Mr John Simmonds BSc (Technical Manager)
Mrs Jean Wareham (Scheme Manager) – for the applicants

No appearance for the respondents

Members of the Leasehold Valuation Tribunal:

Mr MA Loveday BA(Hons) MCI Arb
Mrs HC Bowers MRICS
Miss J Dalal

BACKGROUND

1. This is an application for dispensation with consultation requirements under s.20ZA of the Landlord and Tenant Act 1985 (the Act) in respect of roof gutter works to a block of sheltered housing in Woking. At the end of the hearing, the Tribunal orally gave its decision to allow the application under paragraph 18(2) of the Leasehold Valuation Tribunal (Procedure) (England and Wales) Regulations 2002. The Tribunal's reasons for the decision appear below.
2. The application relates to a block of flats at 21-32 Raeburn Grove, St John's Hill Road, Woking. The applicant is the present freehold owner. By an application dated 23 October 2006 the applicant applied for dispensation with the consultation requirements for the carrying out of works to remedy a serious roof leak which was causing rainwater to enter flat 30.
3. The Tribunal inspected the premises on the morning of the hearing. The block forms part of the Mount, an estate of sheltered housing, built around an existing substantial property, located on the outskirts of Woking, with the newer parts dating from the 1980s. The estate is well managed in good decorative condition and has neat and well-tended gardens. Each block comprises 2/3 storey accommodation of brick under pitched tile roofs with level access and other special features for elderly residents. Raeburn Grove is a block of 12 two-bedroom flats; 8 let on long leases, and 4 on periodic tenancies. To the rear and sides are gables with valley gutters between each gable draining the pitches on either side. Although the Tribunal was unable to inspect the affected valley gutters, other similar gutters were visible from ground level. They showed lead gutters turned under the tiles on each pitch. It appeared that repairs had been made to several of the other valley gutters by replacing (either wholly or in parts) the lead lining and details. The new lead linings had either been tucked under the tiles on each side or attached to the outer surface of the tiles. Internally, the Tribunal was able to inspect flat 30 immediately beneath the two valleys concerned: the flat was not subject to a long lease and was vacant. There was substantial water damage to the ceiling of the hall and living room with

corrupted plaster and mould. There were buckets on the floor beneath these areas with traces of water in them.

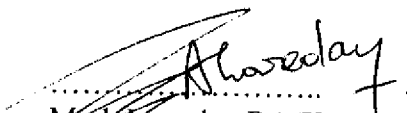
4. The respondents did not attend the hearing or provide written representations. Mrs Everson stated that the applicant was a charitable trust providing accommodation to the elderly. Water ingress had first been reported in August 2006 during a period of largely dry weather. Local management instructed general contractors to inspect and carry out patch repairs. At that stage, it was believed that the problem was one of loose tiles. 2 men spent 2 days on the roof inspecting and replacing tiles. When it rained in September, it proved that the works had not cured the problem. A second attempt was made to repair at the end of September when workmen spent some 6 hours carrying out patch repairs to the roof. Again, when it rained, the problem recurred. Mr Simmonds, the technical manager, was called in and in mid September he inspected the roof. Mr. Simmonds told the Tribunal that he used a tower scaffold erected by decorators who were on site and that when he went up the recent patch repairs were evident. He concluded that two roof valleys needed replacement. At the end of September he therefore prepared a specification headed "Schedule of Work Flat 30 Raeburn Grove, Woking". The specification provided for removal of tiles, battens and valley boards, replacement of the lead to the valleys, and relaying of the tiles with new battens and cement fillets. Mr. Simmonds wished to get some idea of costs before contacting lessees. He therefore sent the specification to 5 approved contractors.
5. Mrs Everson produced a copy of a letter dated 13 October 2006 to Mr and Mrs Powell at flat 31 which she had also sent to the remaining leaseholders. The letter stated that since the works were urgent, it may not be possible to consult fully. The letter gave until 12 November 2006 for any representations.
6. Mr Simmonds received 3 replies from the 5 contractors. The lowest estimate from J Beckett & Sons Ltd was for £3,689.50 (inclusive of VAT). In addition, there was the cost of supervision. The application was made to the Tribunal on 23 October 2006. Mrs Everson produced an example of a second letter sent to

all the lessees the next day. The letters informed them of the application, gave details of the three estimates, and stated that the applicant had entered into a contract with J Beckett and Sons Ltd. The letters invited lessees to discuss the matter. No reply was received to any of these letters – and none of the lessees attended a service charge meeting arranged for them on site on 7 November.

7. Mrs Everson further informed the Tribunal that the cost of the works would be met from the service charge Reserve Fund and would not be applied to the ‘end of year’ service charges for this year. Flat 30 had been vacated by the tenant on the day of the hearing, and the applicant could not re-let it to another tenant until the leak was stopped – and the applicant wished to act quickly now that rainfall increased as the winter set in.
8. There is a letter from Mrs Everson on the Tribunal’s file dated 30 October 2006 stating that copies of the Specification and estimates have been served on each of the lessees.
9. The Tribunal finds that the Notice of Intention letter of 13 October 2006 substantially complied with paragraph 1 of Part 2 of Schedule 4 to the Service Charges (Consultation Requirements) (England) Regulations 2003. It referred to the Commonhold and Leasehold Reform Act 2002 rather than the Landlord and Tenant Act 1985, but this is not a requirement of the regulations. The only substantial difficulty was that although the relevant period of 30 days complied with paragraph 2 of the regulations, that period had not expired at the date of the hearing. The applicant obtained estimates as required by paragraph 5(a) of the regulations. The letter of 23 October was essentially a hybrid of the notices required by paragraphs 5(b) and paragraph 6 of the regulations – although it did not strictly comply with either requirement.
10. However, it is reasonable for the Tribunal to dispense with the consultation requirements. The works are plainly urgent and the roof defects have caused severe internal damage to one of the flats. The applicant has acted promptly in making this application. It has complied with the consultation requirements in a number of respects and has taken reasonable steps to inform lessees of what is

being done (both by way of letters and informally at the meeting on 7 November). No response has been received to any of the letters informing the lessees about the works or this application. The cost of the works is relatively modest – and this decision does not preclude any further application under section 27A of the Act. Furthermore, the Tribunal bears in mind that this is sheltered accommodation owned by a charitable trust and that it is in the public interest to make flat 30 available for the applicant's vulnerable clients as soon as possible. The applicant has taken steps to ensure that the works are carried out at a competitive cost. Although the time limit in the letter of 13 October has not yet expired, the other steps taken by the applicant to inform lessees of the situation has ensured that no substantial prejudice has been caused to the respondents.

11. In the premises, the Tribunal determines under s.20ZA of the 1985 Act that the consultation requirements in respect of the qualifying works set out in the undated document headed "Specification of Work Flat 30 Raeburn Grove, Woking" shall be dispensed with.


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Mark Loveday BA(Hons) MCI Arb
Chairman

Dated: 7 November 2006