

Leasehold Valuation Tribunal: Decision.

Housing Act 1985

Address of Premises

12 Station Road
Budleigh Salterton
Devon
EX9 6RW

The Committee members were

Mr T E Dickinson BSc FRICS (Chair)
Mr E G Harrison FRICS

1. Summary and Decision

Following an inspection of the property on 17 November 2005 and a Hearing at which representations were heard from the Applicants, the Tribunal has concluded that it does accept the Applicant's grounds for seeking dispensation and has therefore concluded that it is reasonable to dispense with the consultation requirements pursuant to Section 20 of the Landlord and Tenant Act 1985 (as amended).

2. Background

On 4 October 2005 Symes, Robinson & Lee, Solicitors of Budleigh Salterton applied to the Leasehold Valuation Tribunal under Section 20ZA of the Landlord and Tenant Act 1985 ("The Act") for the dispensation of the consultation requirements contained in the Act. The Applicants are listed as Rosemary Anne Palmer (executors for J C Palmer deceased) and Arthur Henry King Robinson.

The Respondents are named as:

1. Ida Mary Lovell
2. Mary Elise Marten
3. John Martin Hollingworth
4. Ida Elaine Murray

Mrs Murray is described in the application form as being the representative of all the leaseholders.

Mrs Betty Mary Baynham of Flat 2 is also named as a Respondent.

The works to which this application relate are detailed as the replacement of failed and missing cavity wall ties.

The grounds for seeking dispensation are outlined in the application as follows:

- a) "The works to be carried out are as detailed on the attached estimate from Exe Terminators & Co Ltd dated 2/08/05. The work in question is highlighted in yellow. The total cost (inc VAT) is £2761.25. No start date for the work has been agreed with the contractors. Having said that all parties are anxious that the work should be carried out as soon as reasonably practicable. It is not envisaged that any work will be carried out on the tenement building at this stage as it is not specifically recommended by the contractors."
- b) "We have provided a copy of the Exe Terminator's report to Mrs Baynham, the lessee of Flat 2, and to Mrs E Murray who speaks for the lessees of Flats 1 and 3. They have confirmed to us that they are in agreement with the work being carried out."
- c) "Mrs Baynham and Mrs Murray were provided with information relating to the consultation requirements in connection with the recent application to which reference is made in the application. They agree that in view of the cost of the work and the need for the work to be undertaken speedily that the dispensation application is appropriate."

3. Inspection

The Tribunal members inspected the property prior to the hearing on Thursday 17 November 2005 and noted the following defects to the building externally:

- a) On the front elevation, there is evidence of cracking to the mortar joints to the brickwork above and below the ground floor windows including a slight bulge in the brickwork with evidence of perished face bricks. It is apparent that some of the mortar joints have been previously re-pointed.
- b) On the flank elevation of the main building, there would appear to be evidence of some movement to the external walling just below the level of the eaves and structural movement above the main entrance door with significant gaps visible between the lintel and adjacent brickwork.
- c) No evidence of significant movement or cracking was noted to the small section of rear walling or the flank wall to the rear tenement.

4. Hearing

After the inspection a hearing was held in the offices of Symes, Robinson and Lee when Mr P Langrishe submitted evidence on behalf of the Applicants. All leaseholders have been provided with a copy of the report from Exe Terminators and all were happy with the firm who are recognised to be local experts in their field and well known local contractors. Mr Langrishe went on to state that the leaseholders were happy with the quotation that had been received, the sum of money was not huge and in view of the health and safety implications the Applicants wished to get on with the project as soon as practically possible.

At a recent meeting with the leaseholders it had been agreed that a second quotation was not necessary and all leaseholders were unanimously in support of the specification and works recommended by Exe Terminators.

Mr Langrishe provided the Tribunal with a copy of a letter dated 14 November 2005 showing Betty Baynham's full agreement to the recommended works.

Mr Langrishe stated his concern about internal cracking to the walls of all three flats and quite severe cracking to the internal walls of Mrs Baynham's flat (Flat 2). It was the Landlord's obligation to deal with the matter as speedily as possible and in the most cost

effective manner. In view of the problems, none of the leaseholders would have a fair chance of selling their flats at the moment.

When questioned on health and safety matters, it was stated by Mr Langrishe that the contractors had discovered that a large number of wall ties were missing from the structure. Exe Terminators and Co Ltd had also referred to significant red rusting occurring to the galvanised ("fishtail") ties on the front and side elevations of the main building together with a serious lack of wall ties particularly between the openings which may have contributed towards the severe movement cracks that are apparent in a number of areas.

5. The Law

Applications to the Leasehold Valuation Tribunal (LVT), may, on occasion, have to be resolved urgently.

Section 20 of the Landlord and Tenant Act 1985 (as amended) and Section 20ZA of the above Act relate to the subject.

Under Section 20ZA, 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 long term agreements, the Tribunal may make the determination if satisfied that it is reasonable to dispense with the requirements. In Section 20 and also in Section 20ZA "qualifying works" mean works on a building or any other premises.

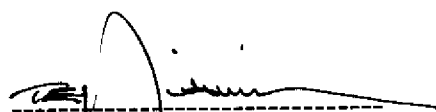
6. Decision

The Tribunal has carefully considered the representations made by the Applicants and the correspondence from the Respondents agreeing to the Applicants proposals generally. The Tribunal have also carefully considered the contents of the specialist firm's report and estimate prepared by Exe Terminators and Co Ltd. Whilst rusting of wall ties can be regarded, in the Tribunal's opinion, as a longer term problem; the specialist company have noted that there is a serious lack of wall ties particularly between the openings which may have contributed towards the severe movement cracks that are apparent. In reaching its

decision the Tribunal has therefore taken into account all the relevant circumstances including the health, safety and welfare of the occupiers and thus accepts the Applicant's grounds for seeking dispensation from the consultation requirements.

It is therefore concluded that there is indeed a need for this work to be undertaken speedily and that this dispensation application is hereby granted by the Tribunal.

Chairman

A handwritten signature in black ink, appearing to read 'T E Dickinson', is written over a horizontal dashed line.

T E Dickinson B Sc FRICS

Dated

18th November 2005

A Member of the Southern Rent Assessment Panel
and Leasehold Valuation Tribunal appointed by the Lord Chancellor