

Southern Rent Assessment Panel & Leasehold Valuation Tribunal

Case No.CHI/45UH/LDC/2004/0023

**Re: 12 Thorn Road, Worthing, West Sussex BN11 3ND
(The Property)**

Between

Plentview Ltd (landlord/applicant)

And

**Mrs C A Barnes
Mr & Mrs J Merritt
Mrs N Tighe
(tenants/respondents)**

DECISION OF THE TRIBUNAL

Appearances:

Mr D R Courtneil AIMBM, Managing Agent, of Watson Property Management, for
the Landlord

The Respondents did not appear and were not represented

Hearing: 6 December 2004

Tribunal: Ms J A Talbot MA (Cantab).
Mr R Wilkey FRICS

Date of Issue: 9 December 2004

Introduction

1. This application was made on 18/11/2004 by the landlord's managing agent, Watson Property Management, under S.20ZA of the Landlord and Tenant Act 1985 ("the 1985 Act") to dispense with all or any of the consultation requirements in relation to any qualifying works, if the tribunal is satisfied that it is reasonable to do so. That subsection was introduced by S.151 of the Commonhold and Leasehold Reform Act 2002 ("The 2002 Act") which came into force on 31/10/2003. Regulations made under the 2002 Act gave the Leasehold Valuation Tribunal ("the tribunal") powers to deal with such applications. These powers are set out in the Service Charges (Consultation Requirements) (England) Regulations 2003, (SI No.2003/1987) ("the Consultation Regulations") which also came into force on 31/10/2003.
2. The landlord's application asks the tribunal to dispense with all or any of the consultation requirements in relation to repair works needed to the rear addition flat roof and rear wall at the property.
3. Directions were given on 24/11/2004 for the applicant to prepare a bundle of documents for consideration at the hearing, and stating that if any lessees wished to contest the application, they were to attend the hearing and produce any necessary documents of their own.

Inspection

4. The Tribunal inspected the property before the hearing. It consists of a three storey inner terraced house built around 1880, situated on level ground in a residential area near the seafront in central Worthing. The front elevation of the house is rendered and painted, with a small projecting tiled roof over the ground floor entrance and window. There is some bowing between the top dormer and first floor window. The main concrete tiled roof shows signs of ageing. The exterior decorations, including windows, are in poor order. The rear of the property is accessed from a narrow twitten running along the back of the neighbouring houses. The entrance to the twitten, via a wooden gate, is currently partly blocked by scaffolding. The Tribunal obviously could not see onto the flat rear addition roof, but noted that the rear wall was unpainted, had some cracks and was porous. Some vegetation was noted growing out of the guttering to the main part of the property.

The Hearing

5. A hearing took place at Worthing Town Hall on 6 December 2004. The landlord/applicant was represented by Mr D Courtneil of the Managing Agents Watson Property Management. The respondents/lessees did not appear and were not represented.

6. Shortly before the hearing, Mr Courtnell had sent to the Tribunal copies of documents in accordance with the Directions. He presented the application and explained the background relating to the repair works needed to the rear addition flat roof and rear wall.
7. By way of background, Mr Courtnell explained that his firm had taken over management of the property in 1999, when it was apparent that the exterior was in poor condition. His original intention had been to carry out a maintenance programme, starting with repair works to the roof followed by exterior decorations. However, the property was subject to Notice from Worthing Borough Council in relation to fire prevention works, which had to take priority. Spreading to the main roof was then discovered, necessitating immediate strengthening work.
8. All these works had to be paid for by the lessees via the service charge account and it was felt unreasonable to proceed with further costly works to the rear addition roof and wall at that stage. Mr Courtnell had aimed for these works to commence in March 2005, during the next service charge accounting year commencing in January, which would have allowed for the consultation procedure to be followed.
9. However, it became clear during September 2004, that these works were now urgent, because of severe water ingress through the rear wall affecting the interior of the flats. Mr Courtnell had inspected the interior of one of the flats and seen the extent of the problem for himself. As a result, Mr Courtnell wrote to all the lessees on 29 September, and a meeting of lessees also took place. On 14 October Mr Courtnell wrote again enclosing copies of two estimates and explaining that if the consultation procedure were to be followed it would take 60 – 90 days. He recommended the lower of the two quotes, from Alder Roofing and Building Services, and made a demand on account for service charge payments.
10. The lessees all confirmed in writing that they were happy for the works to proceed as soon as possible. None of them have opposed the S.20ZA application to the Tribunal.
11. In reply to questions from the Tribunal, Mr Courtnell said he had not prepared a detailed Specification for the works, in order to save time, in view of the urgency. He had instructed these contractors on many occasions before, they were familiar with the property, and had been up onto the roof to inspect. On the question of access for the scaffolders, he said that he would be making immediate enquiries to establish who was in charge of some scaffolding at the rear of a neighbouring property, which could impede access, in order to minimise any delay. Once this had been sorted out, Mr Courtnell was hopeful that the work could be done within a four week period.

Consideration

12. The Tribunal retired to consider the application. It accepted all Mr Courtnell's evidence as reasonable and straightforward. It noted that there were no objections from any lessees; indeed, they were keen for the work to be carried out as soon as possible. The Tribunal considered that Mr Courtnell had kept the lessees adequately and expeditiously informed of developments in writing.

Decision

13. The Tribunal therefore agreed that it was reasonable to make an Order as sought, to dispense with the consultation requirements set out in S.20ZA of the Landlord and Tenant Act 1985 and the Service Charges (Consultation) Requirements (England) Regulations 2003. The Tribunal hereby so orders.

Dated 9 December 2004

Signed
Ms J A Talbot MA (Cantab.)
Chairman

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**IN THE MATTER OF AN APPLICATION UNDER SECTION 20ZA
LANDLORD AND TENANT ACT 1985
AS AMENDED BY SECTION 151
COMMONHOLD AND LEASEHOLD REFORM ACT 2002**

ORDER OF THE LEASEHOLD VALUATION TRIBUNAL

On hearing the representative for the applicant, the Tribunal makes an ORDER in the following terms:

The consultation requirements in relation to proposed repair works to the rear addition flat roof and rear wall at the Property be dispensed with in accordance with Section 20ZA of the Landlord and Tenant Act 1985 as amended by Section 151 of the Commonhold and Leasehold Reform Act 2002.

Dated 9 December 2004

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**Ms Jane Talbot (MA Cantab.)
Chairman**

