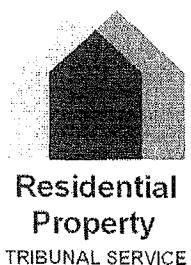


7041



Case Reference
LON/00AW/LDC/2011/0053

**THE LEASEHOLD VALUATION TRIBUNAL
FOR THE LONDON RENT ASSESSMENT PANEL**

**IN THE MATTER OF THE
LANDLORD AND TENANT
ACT 1985 ("THE ACT")
SECTION 20ZA**

**Re: 47-53 Pont Street,
London
SW1X 0BD,**

Applicant: Sergama NV

Representation: Mr James Dobson and Mr David Holland from Knight Frank

Respondents: See Attached Schedule

The Tribunal: Mrs Joanne Oxlade Lawyer Chairman
Mr Charles Norman FRICS Valuer Member

Venue: 10 Alfred Place
London
WC1 7LR

Date: 6 July 2011

DECISION

Determination

1. The Tribunal determines that the Application for dispensation in respect of urgent works to repair the rendering to the front elevation of 47-53 Pont Street, London SW1X 0BD be **GRANTED**.

Background

2. The matter concerns a substantial property described as Victorian and comprising 20 flats. These are arranged on basement ground and four upper floors. The front elevation of the building includes ornate decorative rendering.
3. The Applicant is a head lessee and responsible inter alia for external repairs. The freeholder is the Cadagon Estate.
4. On 13 June 2011 of substantial piece of plaster rendering fell off the front elevation onto the public highway. On the same day, Knight Frank, the agents for the headlessee, Sergama NV made an application to the Tribunal for dispensation for repair works. Knight Frank wrote to each of the lessees explaining the position, enclosing an initial notice of an intention to carry out works under section 20 of the Act and stating that they were making the application to the Tribunal. This was communicated both by post and by hand.
5. Having taken client's instructions, Knight Frank took emergency steps to make the building safe by closing off areas of pavement, and by carrying out a hammer test on areas of rendering and removing areas found to be loose. This was effected by means of a "cherry-picker".
6. On 23 June 2011, the Tribunal (Mr A Jack) issued directions in the matter. This abridged time for the notification requirements of hearings on the ground of urgency. It required the Applicant to serve notice of the Application and the Directions on each of the lessees. It required any objecting lessee to respond to Knight Frank and the Tribunal upon receipt of the Directions, setting out the objector's grounds. Knight Frank complied with the Directions by serving these by hand and by post on each of the Respondents.
7. The Tribunal did not consider that an inspection was necessary.

The Relevant Statutory Provisions

8. Section 20ZA provides as follows:

"20ZA Consultation requirements: supplementary
(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 ...the tribunal may make the determination if satisfied that it is reasonable to dispense with the requirements."

The Applicant's Case

9. The Applicant put into evidence a defects report dated 30 June 2011 prepared by Mr Holland of Knight Frank.
10. The Applicant's case was that although emergency works had been carried out to leave the building safe, there remained a residual risk that further falls of rendering could occur. The Applicant did not consider that it was practicable to carry out further safety measures to remove this risk without putting up scaffolding.
11. The Applicant had consulted with the lessees and would continue to do so. Knight Frank had managed the building since 1992. There was a reserve fund of some £265,000 of which £165,000 was earmarked for internal works. Consultation was underway with the tenants in relation to those works. Knight Frank have received neither correspondence nor telephone calls in relation to this matter from the Respondents.
12. Mr Holland explained that he expected the cost to be around £25,000 including VAT and professional fees. He had gone out to tender had received one quote and was awaiting the other results.

The Respondents' Case

13. No responses have been received by the Tribunal from the Respondents.

The Lease


14. In answer to a question from the Tribunal, Mr Dobson stated that he was unable to provide a copy of the headlease but stated unequivocally that the Applicant was responsible for carrying out these repairs. Mr Dodson had discussed the matter with a building surveyor at Cadagon Estates, the freeholder.

Findings

15. The Tribunal finds that it is reasonable to dispense with the consultation requirements for the following reasons.
 - i. The Tribunal is satisfied that there remains a residual risk of danger to public safety if the repair work is not carried out;
 - ii. The Tribunal accepts the evidence of Mr Holland that it would be impracticable to fully assess the condition of the rendering without appropriate scaffolding and that this cannot be safely carried out using a "cherry picker".
 - iii. The Tribunal also accepts Mr Dodson's evidence that the Applicant is liable to carry out these works.

Informative

16. The parties are advised that the grant of dispensation does not curtail the rights of any lessee to challenge the reasonableness or payability of a service charge under sections 19 and 27A of the Act.
17. Further, as the Tribunal pointed out at the hearing, this decision does not entitle the Applicant to undertake works more extensive than those required to remedy the rendering problem referred to in the application.


~~Joanne Oxlade~~
Chairman