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## **HM COURTS & TRIBUNALS SERVICE**

### **LEASEHOLD VALUATION TRIBUNAL**

In the matter of an Application under Section 20ZA of the Landlord & Tenant Act 1985 (Determination to dispense with the statutory consultation requirements in relation to major works)

**Case No.** CHI/29UN/LDC/2012/0014

**Property:** Royal York Mansions  
The Parade  
Margate  
Kent  
CT9 1EZ

**Between:**

Royal York Mansions (Margate) Limited  
("the Applicant")

And

The Lessees of Royal York Mansions  
("the Respondents")

**Date of Hearing:** 14<sup>th</sup> May 2012

**Members of the Tribunal:** Mr. R. Norman  
Mr. R. Athow FRICS MIRPM

**Date Decision Issued:** 16<sup>th</sup> May 2012

### **ROYAL YORK MANSIONS, THE PARADE, MARGATE, KENT CT9 1EZ**

#### **Decision**

1. The Tribunal made a determination to dispense with all the consultation requirements of Section 20 of the Landlord and Tenant Act 1985 ("the Act") in respect of the following works at Royal York Mansions, The Parade, Margate, Kent CT9 1EZ ("the subject property"):

(a) In accordance with the estimate from New Build Maintenance Ltd "To carry out masonry repair to the front of building moulded to match existing. This will need to

be built up in layers of Portland Stone inclusive of materials £850". In addition approximately £100 to test the railings. Plus VAT on those figures.

(b) In accordance with the quote from TMG Construction as confirmed by Mr. Macrea at the hearing £2,500 (no VAT) to clear the remaining rubbish from the basement.

(c) In accordance with the quote from TMG Construction as confirmed by Mr. Macrea at the hearing £1,000 (no VAT) to repair the guttering, pipework, downpipes and stack pipes and holes around pipes at the back courtyard and to effect a temporary flashband repair to the slipped wired pane of glass above the walkway to Flat 3.

(d) In accordance with the estimate dated 4<sup>th</sup> April 2012 from Mazes CCTV & Security Solutions Ltd. for the work detailed in that estimate not to exceed £14,840 (no VAT).

### **Background**

2. An application was made by Ringley Legal on behalf of Royal York Mansions (Margate) Limited to dispense with the consultation requirements of Section 20 of the Act in respect of certain works at the subject property. That company is the freeholder of the subject property and is understood to be in liquidation.

3. By an order made on 26<sup>th</sup> January 2012 a Leasehold Valuation Tribunal appointed Ms Mary-Ann Bowring of Ringley Chartered Surveyors as the receiver and manager of the subject property.

### **Inspection**

4. On 14<sup>th</sup> May 2012 in the presence of Ms Bowring and two of the leaseholders, Mr. V. Scarfe and Mr. N. Leschem, the Tribunal inspected the entrance hall, stairs, landings, the rear yard and part of the basement at the subject property.

5. Ms Bowring pointed out the following:

(a) That the emergency lighting was back in operation, with the exception of a light in the walkway to Flat 3 which had had to be removed because water was leaking onto it from a gap left by a slipped pane of glass.

(b) That the electricity cupboard had been re-locked.

(c) That smoke detectors had been replaced.

(d) That in the rear yard a drain pipe was leaking, some wall hung slates had slipped, there were holes in the wall, cracked brickwork and a bowed pipe.

(e) That at the front of the subject property some balcony railings which had become detached were either laid down flat or were laid against the wall. It could also be seen that part of the render to the front edge of the balconies had broken away.

6. There was no lighting in the basement but at the entrance to it rubbish and wooden laths could be seen. Miss Bowring said that the basement extended under about 80% of the building.

7. On the fire alarm panel in the entrance hall a system fault was indicated in zones 5, 6 and 7.

### **The Hearing**

8. The hearing was attended by Ms Bowring, Mr. V. Scarfe, Mr. P. Curtis (a leaseholder) and, on behalf of Ms. H.C. Bird (a leaseholder) Mr. S. D. Macrea.

9. Before the hearing commenced, Mr. Macrea produced to the Tribunal and to Ms Bowring a statement of Mr. Scarfe together with accompanying documents.

10. The Tribunal explained the scope of the application and the Tribunal's jurisdiction by reference to Section 20ZA of the Act. Mr. Scarfe, Mr. Macrea and Mr. Curtis confirmed that they had received the bundle of documents provided by Ringley Legal and Ms Bowring confirmed receipt of the statement of Mr. Scarfe and accompanying documents. The Tribunal made those present aware that a letter had been received from Ms Evans, the leaseholder of Flat 5, in which she stated that she consented to the application to dispense with Section 20 consultation.

11. Mr. Scarfe made it clear that he was happy for any work required for safety reasons to be done but that in respect of other works he wanted the consultation procedure to be followed.

12. He was also happy that Mazes CCTV & Security Solutions Ltd should continue with the work they had started to address the requirements made by the Fire Safety Inspector in a letter dated 22<sup>nd</sup> February 2012 following an inspection on 27<sup>th</sup> January 2012. Mr. Macrea stated that Ms Bird supported Mazes continuing with the fire alarm work. Ms Bowring had made enquiries about the system fault indicated on the fire alarm panel and stated that it was caused by a need to connect individual flats to the system. It was stated in the estimate of £14,840 from Mazes that if the doors to the individual flats were replaced with half hour fire check doors the fire risk could be reduced and there could be a reduction in the work required and a reduction of the figure by about £2,000. However, because each flat door was included in the demise to each lessee this could only be achieved if all the lessees fitted half hour fire check doors. It was stated in the letter from the Fire Safety Inspector that if, following a risk assessment of the premises, Ms Bowring considered there was an alternative to the items put forward by the Fire and Rescue Authority she should forward those suggestions along with her risk assessment for consideration. Miss Bowring stated that no risk assessment had been carried out because she had run out of money.

13. As to the clearing of rubbish from the basement both Mr. Scarfe and Ms Bird wanted that to be done, but more cheaply. On 17<sup>th</sup> April 2012 Mr. Scarfe had written in response to the first notice served under the Section 20 procedure. In that letter he had suggested that quotations be obtained from TMG Construction for repairs to the structure and exterior, repairs to communal timber windows and decorations externally, communal interior decoration and rubbish clearance. Although in an email dated 19<sup>th</sup> April 2012 from Emma Coles of Ringley to Mr. Scarfe and copied to Crispin Henley of Ringley there was a request for Mr. Henley to contact the contractor recommended by Mr. Scarfe that had not been done. Miss Bowring explained that the work to deal with the Fire Safety Inspector's requirements was

started as it was urgently required but the clearing of the basement was found to be a much bigger job than expected. Having reached the point where it was clear the work was going to cross the threshold and be subject to the Section 20 consultation procedure, work had been suspended pending the decision of the Tribunal as to dispensation. Mr. Curtis wanted there to be a fixed price for the work. Mr. Scarfe in his statement referred to a quote of £3,500 from TMG for clearing the remainder of the rubbish and other work. Mr. Macrea gave more details of that quote and answered questions from Ms Bowring about it. He stated that £2,500 was the quote for clearing the rubbish from the basement and that £1,000 was the quote for repairing the guttering, pipework, downpipes and stack pipes and holes around pipes at the back courtyard and to effect a temporary flashband repair to the slipped wired pane of glass above the walkway to Flat 3. No VAT would be added to those figures.

14. As to the balconies and railings, there is an email from Mam Builders stating that “To take out the inferior materials used to patch up the balcony before, and to make repairs to the concrete. To make good the iron railings will be at the cost of £3600.00”. There is also an estimate from New Build Maintenance Limited in which it is stated that “The balcony has iron railings which have fallen down and before I can get a welder to repair and put it back together the foundations of the balcony need repairing.” That is followed by an estimate “To carry out masonry repair to the front of building moulded to match existing. This will need to be built up in layers of Portland Stone inclusive of materials £850”. This is excluding VAT. Mr. Macrea considered that some masonry was in danger of falling down from the balconies and needed to be dealt with urgently to be made safe. There was then ongoing work required to the railings and balconies. In his opinion nobody would touch that work without a road closure and Mr. Curtis and presumably other occupiers of the ground floor commercial premises would not want a road closure during the holiday season. Mr. Macrea suggested using a scaffold tower to gain access and remove anything dangerous and then consider further work at the end of the season. Ms Bowring pointed out that in response to the first Section 20 notice there had been no contractors nominated for this work and strictly the time for nominations had expired but her “ears were open”. However, Mr. Macrea considered the figure of £850 + VAT to be a fair price for the work. It was suggested by the Tribunal that when that work is carried out, the contractor could be asked to check the security of the railings and remove any found to be insecure. Ms Bowring considered that an additional sum of about £100 + VAT would cover such work.

15. There was concern that the presence of sash windows which open onto the balconies could mean that occupiers of some flats, particularly small children, could get out onto the balconies and in the absence of railings, or secure railings, would be in danger of falling. Only the lower sash of these windows opens and the Tribunal suggested that restrictors be used to allow only a small opening for ventilation.

16. In addition to the works in respect of which evidence had already been given, included in the application for dispensation were the following:

- (a) Repairs to the structure and exterior. Ms Bowring said that the only work not dealt with so far at the hearing was the repair to the hanging slates on a wall in the yard and that she was not asking for a dispensation in respect of that work.
- (b) Repairs to communal timber windows and decorations externally. Ms Bowring stated that she was not asking for a dispensation in respect of that work.

(c) Communal internal decoration. Ms Bowring stated that she was not asking for a dispensation in respect of that work.

17. Those present were asked if there was anything they wished to add. Mr. Scarfe said he was happy with the day. In view of the urgent need to get work done, Mr. Macrea asked the Tribunal to give its decision verbally at the end of the hearing and to confirm the decision in writing. Mr. Curtis said he was happy with what Ms Bowring was doing and asked that she or someone from her office inspect any works carried out before paying for them. Ms Bowring said that would be done. She also said that when she took over there were problems and that she was trying to build trust with the lessees. Some had paid service charges in full, others had paid a large part of them and some had not paid.

18. The hearing was suspended while the Tribunal considered what had been seen at the inspection, the written evidence and the evidence given and submissions made at the hearing. Determinations were made on a balance of probabilities and the decision was announced.

### **Reasons**

19. The Tribunal took into account the following matters:

(a) The first notice under the Section 20 consultation procedure had been served and although there had been little response to it, the opportunity had been given to make written observations about the proposed works and to suggest contractors from whom estimates for carrying out the works should be obtained.

(b) From the lessees there had been one letter from Ms Evans in support of the application for dispensation and from Mr. Scarfe a letter nominating a contractor for part of the proposed works.

(c) The urgency of some of the works.

20. The Tribunal was satisfied that the lessees would not be disadvantaged by dispensing with the Section 20 consultation procedure in respect of the works listed in paragraph 1 above and that it would be right in all the circumstances to make a determination to dispense with all the consultation requirements in relation to those works.

21. Those who had attended the hearing voiced their concerns, they were dealt with and agreement was reached as to the way forward. When the decision was announced they thanked the Tribunal for the decision.

Signed

R. Norman

Chairman