REF LON/00AG/LDC/2008/0104

IN THE LEASEHOLD VALUATION TRIBUNAL

IN THE MATTER OF THE LANDLORD AND TENANT ACT 1985

SECTION 20ZA

AND IN THE MATTER OF 5 Lancaster Drive London NW3 4EY

Applicants River Park Leisure Limited

Respondent All 4 leaseholders of 5 Lancaster Drive London NW3 4EY

The Tribunal

Mr P Leighton LLB (Hons)

Mr D Banfield FRICS

Date of Application 17th December 2008

Date of Decision 23rd February 2009

Introduction

1 By an application dated 17th December 2008 the Applicant applied to the Tribunal for dispensation from the Service Charge Consultation Requirements (England) Regulations 2003 pursuant to Section 20 ZA of the Landlord and Tenant Act 1985 in respect of works to be carried out to the premises known as 5 Lancaster Drive London NW3 4EY ("the property")

2 Directions were given on 29th December 2008. the Applicants and the Respondent agreed that the mater would be determined by way of a paper determination which came before the tribunal on 23rd February 2009

The Facts

3 The Applicant was in the process of carrying out planned redecoration of the front and rear of the property in November 2008 and the tenants requested that the works be carried out under the supervision of a surveyor from Baveno House Chartered Surveyors . The work was carried out in accordance with the Section 20 procedure.

4 During the course of the works and when the scaffolding was in place, the surveyor observed that two windows at the rear of the premises on the uppermost floor were defective and in danger of falling out

5 The managing agents Defries and Associates contacted the leaseholders and informed them that the works were urgent on the grounds of health and safety and arranged with two contractors to tender for the carrying out of the works. The lessees nominated a third contractor S and F construction, but this firm withdrew as they were unable to meet the timescale.

6 The two other contractors namely PWL Decorating Services and Chiswell Maintenance Group both submitted estimates for the work. The lowest

estimate was from PWL in the sum of £10,345 plus VAT and the agents accepted this estimate to carry out the works

7 Each of the leaseholders was kept informed of the developments and a pro forma Section 20 notice was served on each of them. No objection has been received to Messrs PWL carrying out the works at the price tendered. .

The Law

8 Section 20ZA of the Landlord and Tenant Act 1985 provides as follows:-

If an application is made to an LVT to dispense with any of the consultation requirements the Tribunal may make a determination if satisfied that it is reasonable to dispense with the requirements""

The Tribunal's decision

9 The Applicant has issued a pro forma Section 20 notice, has given the leaseholders the opportunity of nominating a contractor and has invited two other tenders and accepted the lower of the two

10 It appears to the Tribunal that the Applicant has complied with the spirit of the Regulations and has merely failed to give all the necessary time limits prescribed for the simple reason that the urgency of the work requires speedy action.

11 In the view of the Tribunal the interests of the leaseholders has not been prejudiced in any way and they appear to fully support the application

12 Accordingly the Tribunal considers that it is reasonable to dispense with the time limits and to grant dispensation to the Applicant pursuant to Section 20ZA of the Act.

Chairman Peter Leighton

Dated 23rd February 2009