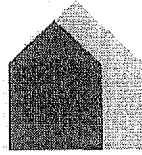


5265



Residential  
Property  
TRIBUNAL SERVICE

**RESIDENTIAL PROPERTY TRIBUNAL SERVICE  
INTERIM DECISION  
GIVEN BY THE LEASEHOLD VALUATION TRIBUNAL**

**Landlord and Tenant Act 1985 Section 20ZA**

---

**LON/00AP/LDC/2010/0066**

**Premises:** 49 and 51 Crescent Road London N22 7RU

**Applicant:** Structadene Limited (represented by Pearl & Couetts Limited)

**Respondent:** J Edney and D Carter (Flat 49)  
Leader Securities Limited (Flat 50)

**Tribunal:** Dr Helen Carr  
Mr John Avery

---

**The application**

1. The landlord of the premises has applied under section 20AZ for dispensation from the consultation requirements contained in Part 2 of Schedule 4 to the Service Charges (Consultation Requirements) (England) Regulations 2003.

**Procedural**

2. The Tribunal issued directions in this matter on 13<sup>th</sup> July 2010. In those directions it was noted that the landlord had indicated that it was content for the matter to be determined on the basis of written representations and without an oral hearing in accordance with the procedure set out in regulation 13 of the Leasehold Valuation Tribunals (Procedure) England) Regulations 2003.
3. The directions gave an opportunity for any party to request an oral hearing. They also gave an opportunity for any leaseholder that wishes to oppose the application from the landlord to provide a statement to the Tribunal setting out his or her reasons for so doing. No request for an oral hearing has been

received by the Tribunal and nor has any statement of objection to the landlord's application for dispensation from consultation been received. However the Tribunal has received correspondence from the Respondents indicating some concerns.

4. This matter is therefore being determined on the basis of the papers alone.
5. The directions made it clear, and this Tribunal reiterates, that any determination made in respect of this application will not be a determination that the costs of the proposed works will be reasonably incurred and recoverable as a service charge, but only that the consultation requirements set out in Part 2 of Schedule 4 to the Service Charges (Consultation Requirements) (England) Regulations 2003 should be dispensed with.

### **Determination**

#### **The Evidence**

6. The documents provided to the Tribunal indicate as follows:
  - a. The sewerage from the lessees' flats has failed due to a collapsed drain. The main sewer in the road is approximately nine metres deep and needs to be exposed in order to ascertain the problem.
  - b. The blocked drain is a health and safety hazard and presents a particular risk as one of the occupiers is pregnant and another elderly.
  - c. The Applicant obtained a quotation of £36,270 plus VAT from D & G works. Following the application to the Tribunal the Applicant obtained a further quotation from Welwyn Services Ltd, which was for £42,234, plus VAT.
  - d. The lessee of Flat 49 is not opposing the application, but expressed reservations about the cost and the diagnosis. These matters go to the reasonableness of and/or liability for service charges and are therefore not relevant at this stage.
  - e. The lessee of Flat 50 argued, on 20<sup>th</sup> July 2010, that there was sufficient time for the Applicant to obtain an alternative quotation. As indicated above the Applicant did obtain a further quotation, on 22<sup>nd</sup> July 2010, from Welwyn Services Ltd.

#### **The Law**

7. The Tribunal is being asked to exercise its discretion under s.20ZA of the Act. The wording of s.20ZA is significant. Subs. (1) provides:
  - a. "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 or qualifying long

term agreement, the tribunal may make the determination if satisfied that it is reasonable to dispense with the requirements” (emphasis added).

8. In light of the evidence provided to the Tribunal by the applicant, and balancing the clear urgency of the matter against the comments of the leaseholders, the Tribunal determines to exercise its discretion to dispense with the consultation requirements contained in Part 2 of Schedule 4 to the Service Charges (Consultation Requirements) (England) Regulations 2003.

Chairman:

Helen Carr

A handwritten signature in black ink, appearing to read 'Helen Carr', written in a cursive style.

Date 9<sup>th</sup> August 2010