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**LEASEHOLD VALUATION TRIBUNAL for the  
LONDON RENT ASSESSMENT PANEL**

**DETERMINATION BY THE LEASEHOLD VALUATION TRIBUNAL**

**APPLICATION UNDER S 20ZA OF THE LANDLORD AND TENANT ACT 1985,  
as amended**

**REF: LON/00BK/LDC/2010/0071**

**Address: Wallace Court, 300-308, Marylebone Road, London NW1 5RH**

**Applicant: Wallace Court Residents Association Ltd.**

**Representatives: RMG (Haywards Property Services)**

**Respondents: Various Lessees of Wallace Court**

**Tribunal: Mrs JSL Goulden JP  
Mr W J Reed FRICS**

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1 The Applicant, who is the landlord of Wallace Court, 300-308 Marylebone Road, London NW1 5RH ("the property"), has applied to the Tribunal by an application dated 28 June 2010, and received by the Tribunal on 16 July 2010, for dispensation of all or any of the consultation requirements contained in S20 of the Landlord and Tenant Act 1985, as amended ("the Act").

2. The property is described in the application as a "*block of apartments, situated on main trunk road, 44 flats*".

3. A copy of a form of lease (undated and incomplete) showing the Applicant as the lessor was provided to the Tribunal. With no evidence to the contrary, it has been assumed that all leases are in the same form.

4. Neither the Applicant nor any of the Respondents have requested an oral hearing, and therefore in accordance with Directions issued by the Tribunal on 20 July 2010, this matter was dealt with by way of a paper hearing, which was held on 7 September 2010.

5. On 31 August 2010, Haywards Property Services confirmed by email that they had complied with the Directions, and provided copies of the letters which had been sent to the lessees. They also provided a copy of a very detailed Asbestos Management Survey prepared by Clearway Asbestos Management Ltd. dated 4 June 2010, together with quotations for total and partial removal of the asbestos. No written representations were received from any of Respondents. The

Tribunal's Directions indicated that the Procedural Chairman did not consider that an inspection of the property would be of assistance to the Tribunal.

### **The Applicant's case**

6. The works to be carried out were described in the application as *"qualifying works. Complete removal of asbestos from site found in asbestos survey. Electrical works on site are currently under way and will lead to additional costs if delayed. Works can continue in the short term on other parts of building but not more than 3-4 weeks. Therefore not time for full consultation period"*. A costs schedule was supplied.

7. The Applicant's grounds for seeking dispensation as set out in the application were *"emergency works. A major works programme has been commenced with regard to overhaul of electrical system. A concurrent asbestos survey has found asbestos on site that was not cleared properly some years ago. Therefore before the electrical works can be completed this asbestos needs to be removed completely at a cost of £18,775.00 (partial removal of £8,065 is not economically viable in the long run) otherwise the costs of the electrical works will be increased substantially"*

8. In respect of consultation which had been carried out, it was said *"emergency works required. No formal consultation has been carried out. We have written to all leaseholders to advise works are needed and this application has been made"*.

9. Following issue of the Tribunal's Directions of 20 July 2010, evidence was produced (by way of copy letters dated 27 July 2010) that the Applicant had sent a copy of the application and Directions to the Respondents. It also appears from that letter that the Respondents had been notified earlier that an application for dispensation had been made to the Tribunal.

### **The Respondents' case**

10. As stated above, no written representations were received from any of the Respondents. By an email from the Applicant's representatives dated 31 August 2010, it was stated *"we have nothing from any respondent apart from meetings with the directors of the development (who are also residents), that they are more than happy for the works to get under way and this is the reaction from all the leaseholders we have spoken to. We have heard nothing as to either consent or not perhaps you have further information, has a hearing been requested or not we are in the dark on this one"*.

### **The Tribunal's determination**

11. The Applicant's representatives confirmed by their letter to the Tribunal dated 31 August 2010 that a copy of the application and the Tribunal's Directions had been distributed to the lessees and copies were provided. The Tribunal has received no communication from the Respondents.

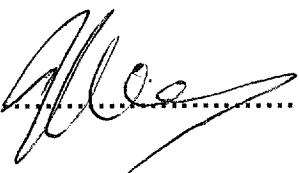
12. The Tribunal must have a cogent reason for dispensing with the consultation requirements, the purpose of which is that tenants who may ultimately foot the bill

are fully aware of what works are being proposed, the cost thereof and have the opportunity to nominate contractors.

13. The removal of asbestos is a health and safety issue and the work should be carried out without delay. If the Applicant were to go through the consultation process, it follows that there would be delay and the Tribunal accepts that the costs would increase substantially.

14. Accordingly the Tribunal determines that those parts of the consultation process under the Act as set out in The Service Charges (Consultation Requirements) (England) Regulations 2003 which have not been complied with may be dispensed with.

**15. It should be noted that in making its determination, and as stated in Directions, this application does not concern the issue of whether any service charge costs are reasonable or payable by the lessees. The Tribunal's determination is limited to this application for dispensation of consultation requirements under S20ZA of the Act.**

CHAIRMAN..........

DATE .....7 September 2010.....”