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**HM Courts  
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**SOUTHERN LEASEHOLD VALUATION TRIBUNAL**

**Case Reference: CHI/29UD/LDC/2012/0029**

**DECISION OF THE LEASEHOLD VALUATION TRIBUNAL ON  
APPLICATIONS UNDER SECTION 20ZA OF THE LANDLORD & TENANT  
ACT 1985**

**Applicant: Southern Land Securities Ltd**

**Respondents: (1) Mr & Mrs Munro (2) Ms C Davey**

**Premises: 27 Tower Road, Dartford, Kent, DA1 2HA**

**Date of application: 13 August 2012**

**Date of hearing 11 September 2012**

**Leasehold Valuation Tribunal:  
Mr I Mohabir LLB (Hons)  
Mr R Athow FRICS MIRPM  
Mr P A Gammon MBE BA**

## *Introduction*

1. This is an application made by the Applicant landlord under section 20ZA of the Landlord and Tenant Act 1985 (as amended) (“the Act”) to dispense with the consultation requirement under Schedule 4, Part 2 of the Service Charges (Consultation Requirements) (England) Regulations 2003 in relation to the cost incurred to carry out urgent remedial work and temporary repairs to the second floor rear bedroom of the subject property.
2. The property is described as a semi-detached Victorian property converted into 2 self-contained flats. The First Respondents are the lessees of the upper flat located on the first and second floors. The Second Respondent is the lessee of the ground floor flat.
3. It seems that on 31 July 2012, the ceiling in the second floor rear bedroom partially collapsed. This was reported to the Applicant’s managing agent, Hamilton King Management Ltd (“Hamilton King”) who instructed a contractor, CDM Ltd, to attend the property on the same day. In order to make the area safe, the contractor installed Acrow props to support the ceiling.
4. Subsequently, the contractor attended the property on 3 August 2012 with a Building Surveyor, Mr Collison, to carry out an assessment of the damaged area. In a report dated the same day, Mr Collison concluded that inadequate repairs had been carried out to the rear elevation roof over the preceding 10-20 years because of a valley gutter leak. This had resulted in the roof rafters having been improperly joined and the roof joists decaying in places thereby making the roof unstable. In his opinion, this had caused the partial ceiling collapse. Mr Collison’s opinion was that the relevant section of the roof would either need to be rebuilt or adequately strengthened. In the meantime, he advised CDM Ltd to erect temporary propping. He further advised Hamilton King that the bedroom could not be used until the repair works had been completed.

5. On 9 August 2012, Hamilton King wrote to the Respondents commencing statutory consultation under section 20 of the Act by serving a notice of intention to carry out the remedial works in relation to the rear elevation roof.
6. On 13 August 2012, Hamilton King made this application on behalf of the landlord seeking retrospective dispensation to consult regarding the costs incurred for the obtaining the report of Mr Collison and the temporary work carried out by CDM Ltd to make the property safe.
7. By way of background, Hamilton King then instructed the firm of Angell Thompson, Consulting Structural Engineers & Surveyors, to undertake a more detailed survey of the rear elevation roof. Their findings and recommendations are set out in a report dated 23 August 2012, which largely confirms the findings made by Mr Collison and sets out in some detail the recommended works to be carried out. The cost of the report and the proposed works do not form part of this application.
8. By a letter dated 24 August 2012, Hamilton King provided the Respondents with a copy of the report prepared by Angell Thompson as part of the consultation process and invited them to nominate a contractor to provide an estimate for the proposed works.

### ***The Law***

7. Section 20ZA of the Act provides the Tribunal with a discretion to grant dispensation to a landlord from having to carrying out statutory consultation in relation to qualifying works under section 20 of the Act where it is satisfied that it is reasonable to do so.

### ***Hearing and Decision***

8. The hearing in this matter took place on 11 September 2012 following an inspection of the property earlier that morning. The Applicant was represented by Mr Cummings from Hamilton King. The Respondents Mrs Munro and Ms Davey attended in person.

9. Following some discussion between the parties themselves and with the Tribunal as to the nature and extent of the application, both of the Respondents said that they did not oppose the application. The Tribunal orally informed the parties that the application to dispense with the consultation requirements in relation to qualifying works was granted as sought by the Applicant. The purpose of this decision is to formally record that the application was granted and the basis for doing so. It should be noted, the Tribunal does not also find that any costs incurred in relation to the investigation and immediate temporary works carried out are reasonable. If and when those costs are known, they can be challenged by the Respondents if they are considered to be unreasonable.
10. For the avoidance of doubt, had the Respondents not consented to the application, the Tribunal would have been minded to grant the application because it was clear from the report of Mr Collison that the property, if left unattended, posed a serious risk to the health and safety to the occupants of the first floor flat. As the Tribunal understood it, the ceiling plaster in the second floor rear bedroom narrowly missed falling on a small child.

Dated the 2 day of October 2012

Chairman.....  
Mr I Mohabir LLB (Hons)

