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**DECISION OF THE LEASEHOLD VALUATION TRIBUNAL ON AN APPLICATION
UNDER SECTION 20ZA OF THE LANDLORD AND TENANT ACT 1985**

Case Reference: LON 00AZ/LDC/2011/0114

Premises: 67 Passfields Bromley Road London SE6 2RF

Applicant(s): Phoenix Community Housing Association

Representative: Emma McSweeney Home Ownership Manager

Respondent(s): Mr and Mrs H Okojie

Representative:

**Leasehold Valuation
Tribunal:** P L Leighton LLB (Hons)
Mrs S Redmond BSc(Econ) MRICS

Date of decision: 15th February 2012

Decision of the Tribunal

- (1) The tribunal grants dispensation under section 20 ZA of the Landlord and Tenant Act 1985 in respect of the statutory consultation requirements in respect of building works to be carried out at 67 Passfields , Bromley Road, London SE6 2RF

The Facts

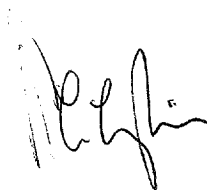
- (2) The applicant is the freehold owner of the property since December 2007 following a voluntary stock transfer from the London Borough of Lewisham.
- (3) The respondents hold under a lease of the property dated 6 June 1968 for a term expiring on 2nd November 2111. The property is comprised in a block of 12 flats which forms part of an estate comprising 101 properties
- (4) The applicant issued a notice of intention to carry out major works on the estate to all leaseholders on 27 May 2011 to which no notices or representations were received from any of the leaseholders on the estate.
- (5) The applicant then issued a statement of Estimates in relation to the proposed works on 12 September 2011 which revealed on acceptance of the lowest tender from United House that the total cost of works would be over £2,625,000 and that the Respondents' estimated share would be £19,706.41.
- (6) Written observations to the second notice were received from 4 leaseholders including the respondents within the consultation period. Answers were sent to 3 of the leaseholders but the response from the respondents was mislaid by a temporary member of staff, who has subsequently left the applicant's employment.
- (7) The respondents were invited to submit a copy of the written representations but declined to do so on the grounds that they considered that any representations would be ignored. Subsequent

correspondence by e-mail occurred between the applicant and the respondent in which the applicant attempted to deal with a number of points associated with cost which had been raised by the respondents. In addition there was conversation by telephone

The Tribunal's Decision

- (8) Having considered the evidence in this case the tribunal is uncertain as to whether in fact the applicant requires dispensation since it has complied as far as possible by answering any representations received by the respondents outside the consultation period.
- (9) However, if there has been a technical breach of the regulations, it is a breach of the utmost technicality, and the applicant has done everything possible to carry out a reasonable consultation exercise with the leaseholders on the estate including the respondent.
- (10) It is of course open to the respondent or any other leaseholder on the state to challenge the extent of the works, the quality of the work carried out and the cost. However it would be quite unreasonable to penalise the applicant in respect of the loss of the document by a temporary member of staff, and in the view of the tribunal the regulations were not intended to achieve that effect.
- (11) Accordingly dispensation will be granted in the terms requested by the applicant.

Chairman Peter Leighton



D this ate 15th February 2012