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LONDON RENT ASSESSMENT PANEL

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

Case Reference: LON/00AQ/LDC/2012/0154

Premises: 41 – 44 Grove Avenue, Pinner,
Middlesex HA5 5NU

Applicant(s): London Borough of Harrow

Representative: Ms Folashade Bakare (Home Ownership Officer)

Respondents: The executors of the estate of the late Mrs D Mansell, Mr A Mansell and Dr H Waters (re Flat 41); Mr A C Glover (re Flat 43); and Ms T N Jin (re Flat 44)

Representative: N/A

**Date of paper
Determination:** 18 February 2013

**Leasehold Valuation
Tribunal:** Miss J E Guest (Solicitor)
Mr D I Jagger MRICS

Date of decision: 18 February 2013

Decision of the Tribunal

The Tribunal makes the dispensation order under section 20ZA of the Landlord and Tenant Act 1985.

The application

1. The Applicant seeks an order pursuant to s.20ZA of the Landlord and Tenant Act 1985 (as amended) (*"the 1985 Act"*) for the dispensation of any or all of the consultation requirements. The property concerned is

41 – 44 Grove Avenue, Pinner, Middlesex HA5 5NU and the application is made against three leaseholders, Mrs D Mansell of Flat 41, Mr A C Glover of Flat 43 and Ms T N Jin of Flat 44. By way of an email sent to the Tribunal by Mr A Mansell on 31/12/2012, the Tribunal was informed that Mrs D Mansell died on 27/11/2012 and that Mr A Mansell and Dr H Waters are executors of her estate. The Tribunal requested a copy of the death certificate and/or Grant of Probate but, as at the date of the paper determination of the application, such documents had not been provided.

2. The issue in this case is whether the consultation requirements of section 20 of the 1985 Act should be dispensed with given that urgent works were said to be necessary to deal with leaks into Flat 41 due to a cracked soil stack and drain.

The background

3. The property which is the subject of this application is described as a block of flats comprising of four separate self-contained dwellings each with three bedrooms.
4. The application dated 17/12/2012 was received on 18/12/2012. Directions were made on 18/12/2012, which requested that the Respondents indicate by 28/12/2012 whether they consented to the application and wished to have a hearing. Mr A Mansell stated in his email of 31/12/2012 that he consented to the application. There has been no response from the other Respondents. In the absence of any objections by the Respondents, the application proceeded as a paper determination.
5. The Tribunal did not consider that an inspection was necessary and it would not have been proportionate to the issues in dispute.
6. The Respondents each hold a long lease to three of the four flats at the property. The leases require the landlord to provide services and the tenant to contribute towards their costs by way of a variable service charge.

The issues

7. The only issue before the Tribunal is whether it should grant dispensation from all or any of the consultation requirements contained in section 20 of the 1985 Act.

The Applicant's case

8. The Applicant filed a bundle in accordance with the directions. The Applicant's Statement of Case states that water leaked into Flat 41 whenever a toilet was flushed. An unsuccessful attempt to repair the problem was undertaken on 10/10/2012 at a cost of £85.30 + VAT. On 07/12/2012, remedial works were undertaken at a cost of £767.98 + VAT that involved replacing a cracked section of the stack pipe above ground and re-lining a section of the drain below ground. The internal ductwork has been left open to monitor the situation and the works to make good will cost £250.00 + VAT. It is intended that the majority of the cost will be born by the reserve funds with a further contribution of approximately £250 requested from each leaseholder.
9. The works were undertaken by the Applicant's contractors, Linbrook Services Ltd, appointed by the Applicant pursuant to a qualifying long term agreement. The Applicant states that the agreement has not been challenged by the Respondents either during the consultation process or at the time of entering into the agreement.
10. The Tribunal was not provided with any quotes as the works have been undertaken by Linbrook Services Ltd under the qualifying long term agreement. The Tribunal was also not provided with a specification of the works, although the Applicant's Statement of Case summarised the works undertaken.

The Respondents' position

11. The directions provided that any Respondent who wished to oppose the application for dispensation serve a Statement of Case. None of the Respondents served any Statements of Case. The Tribunal concluded that the application was not, therefore, opposed.

The Tribunal's decision

12. The Tribunal determines that an order from dispensation under section 20ZA of the 1985 Act shall be made dispensing with all of the consultation requirements in relation to the works outlined above.

Reasons for the Tribunal's decision

13. The Tribunal has the jurisdiction to grant dispensation under section 20ZA of the 1985 Act "*if satisfied that it is reasonable to dispense with the requirements*".
14. In making its decision, the Tribunal had regard to the fact that the works were urgent since Flat 41 was affected by a leak each time a

toilet was flushed. The Tribunal also took into account the fact that none of the leaseholders had objected to the application. The Tribunal did not consider that any leaseholder would be prejudiced by the grant of dispensation.

15. The Tribunal would stress that it is not making any assessment of the reasonableness of the charges or whether the works fall with the Respondent's repairing obligations under the terms of the lease. A challenge to the charges may still be raised under section 27A of the 1985 Act in the future.

Chair:

Miss J E Guest

Date:

18 February 2013