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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/00AW/LDC/2011/0061**

**Address: 9 Bassett Road, London W10 6LA**

**Applicant: Nine Bassett Road Ltd.**

**Representative: Red Carpet Estate Management, managing agents**

**Respondents: Emma Wallace (Flat A), Robert Snijders (Flat B) Olivia Koerfer (Flat C), Marc Weber (Flat D), Philip Cotterell (Flat E) and The Bradford Property Trust (Flat F)**

**Tribunal: Mrs JSL Goulden JP  
Mrs H C Bowers MRICS**

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1 The Applicant, who is the landlord of 9 Bassett Road, London W10 6LA ("the property"), has applied to the Tribunal by an application dated 1 July 2011, and received by the Tribunal on 4 July 2011, 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 an Edwardian detached house converted into six flats.

3. A copy of the lease of the ground floor flat, dated 4 August 1982 and made between Reshaw Properties Ltd (1) and Simon Derek Ralph Chick (2) was provided to the Tribunal. The Tribunal was advised that all the leases were in essentially the same form.

4. An oral hearing was held on 27 July 2011. The Applicant was represented by Mrs E Carr of Red Carpet Estate Management, the Applicant's managing agents. There was no appearance for or on behalf of any of the Respondents.

5. No request was made from any of the parties for the Tribunal to inspect the property and the Tribunal did not consider that an inspection at this stage would be of assistance to the Tribunal, and would be a disproportionate burden on the public purse.

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

6. The works to be carried out were described in the application as *"replacement of existing drainage system reinstatement of common parts decorations lateral tie ins to front and flank elevations reinstatement of exterior following drainage works"*.

7. The Applicant's grounds for seeking dispensation as set out in the application were *"the freeholders and leaseholders want to proceed with the works immediately and the 2 month minimum period required for the consultation will take the complete programme of works into the winter period when the works cannot be carried out"*.

8. Mrs Carr said that she had been approached by the Applicant in January 2011 to take over the management of the property from the previous managing agents at the end of the service charge year in March 2011. She had been asked to repair and decorate all the elevations to the building which she had been advised were to take place as quickly as possible.

9. Mrs Carr said that she had inspected the property in February 2011 when she had discovered *"amazing cracks"*.

10. When she had obtained the documentation from the previous managing agents, she had noted a structural engineer's report, prepared by Lawson Martin & Partners, on the condition of the building dated 13 April 2010 which had indicated that there was structural damage to the building. She also noted a report from the insurance brokers, G A B Robins UK Ltd dated 3 March 2010 which suggested that further investigation was required. She had insisted that the structural engineer and insurance brokers be recalled and, although reluctant, both returned to inspect the building in early 2011. The insurance brokers thought that the drainage system was defective.

11. At the beginning of May 2011 it was arranged for a CCTV examination of the drains to take place and this was carried out by Rapid Drain Repairs. She had not seen a copy of the report but understood that there were no tree roots and the whole drainage system had to be redone. The insurers would not pay for the remedial treatment but would agree to make good thereafter.

12. In the view of Mrs Carr, she felt that the problems were not entirely due to the drains. She said that every time she went to the property, the cracking had worsened. She also referred the Tribunal to photographs which showed that the property was moving. She had told the Respondents that she had to deal with the structure first including the movement to the property and she was worried that the money spent on the drains would be wasted if there was another cause to the problems with the property.

### **The Respondents' case**

13. No written representations were received from or on behalf of any of the Respondents.

**The Tribunal's determination**

14. 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.

15. Not only have there been no written representations from any of the Respondents, but it is clear from Mrs Carr's evidence and also from the documentation provided to the Tribunal that five out of six of the lessees are content for the works to proceed.

16. There is clearly a major problem with regard to the property and, whilst the Tribunal has sympathy with Mrs Carr's position, the Tribunal is not convinced that the true cause of the problem has been identified and it is noted that the reports are, in some instances, contradictory. Indeed, Mrs Carr confirmed that the structural engineer had not fully accepted the insurance broker's suggestion that the cracking to the property was caused as a consequence of disrepair of the drains.

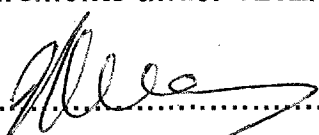
17. The Tribunal can only deal with the matters in the application, and it is noted that Mrs Carr raised a further issue by producing a letter dated 22 July 2011 which related to an additional issue, namely an application for dispensation to include a support for an internal column. In the Tribunal's view, the underlying issue of all the defects to the property may not have been duly identified and it is possible that a full specification of works may need to be drawn up.

18. To carry out works in a piecemeal fashion does not seem a sensible approach and may, in the event, be a more costly exercise.

19. Whilst it appears that the cracking to the property is ongoing, the Tribunal does not consider it to be an emergency situation requiring the Tribunal's dispensation from the consultation process.

20. Accordingly the Tribunal determines that the consultation requirements of S20 of the Act as set out in The Service Charges (Consultation Requirements) (England) Regulations 2003 which have not been complied are **not** to be dispensed with. Should the situation become urgent, the Applicant is entitled to revert to the Tribunal.

**21. 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 .....28 July 2011.....