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**FIRST-TIER TRIBUNAL  
PROPERTY CHAMBER  
(RESIDENTIAL PROPERTY)**

**Case Reference** : **LON/00AN/LDC/2013/0090**

**Property** : **133 Hammersmith Grove, London  
W6 0NJ**

**Applicant** : **Grovetam Ltd**

**Representative** : **Willmotts**

**Respondents** : **Ms P Smith (flat 1)  
Ms C Pharo (flat 2)  
Mr A I Chate (flat3)  
Mr S Mason and Ms S Leger (flat 4)  
Mr D A Martini (flat 5)**

**Representative** : **None**

**Type of Application** : **For dispensation of compliance  
consultation requirements  
provided for by section 20 of the  
Landlord and Tenant Act 1985**

**Tribunal Members** : **C Norman FRICS  
Valuer Chairman**

**Determination based on written  
representations without a hearing**

**Date of Decision** : **9 October 2013**

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**DECISION**

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## **Background**

1. This matter concerns an application for dispensation of the service charge consultation requirements in respect of five leasehold flats at 133 Hammersmith Grove W6 0NJ.
2. An application for dispensation under section 20ZA of the Landlord and Tenant Act 1985 (hereinafter referred to as "the Act") was made to the Tribunal on 22 August 2013. The Applicant is the freeholder and is represented by Willmotts.
3. The application relates to the cost of parapet wall repairs. This parapet is a wall shared with the adjacent terraced building, 135 Hammersmith Grove. The Applicant has incurred a cost of £1,704 including VAT in carrying out the repair.
4. Directions were given on 4 September 2013 by the Tribunal in which the application was allocated to the paper track.
5. The Tribunal did not consider that an inspection was necessary.

## **The Leases**

6. A sample lease of flat 5 was supplied to the Tribunal. Clause 5 (d) (i) of the lease imposes an obligation on the landlord to maintain repair decorate and renew inter alia the roof. Clause 5 (d) (iv) extends this landlords obligation to boundary walls.
7. Clause 4 contains provisions allowing the recovery of the landlord's costs from the lessee via service charges.

## **The Applicant's Case**

8. The Applicant in its grounds stated that the works were to the back parapet wall along the party line. The works are shared with the adjoining property. The neighbours had erected scaffolding to carry out this and other work.
9. The Applicants supplied a schedule of works, which were consistent with its application. This gave a total figure of £3,828 with the costs apportioned to 133 Hammersmith Grove of £1,704. The Applicants also provided photographs showing the parapet wall in an obviously poor condition.
10. The works required were repairs to roofing upstands, hole filling, renewal of lead work, application of waterproofing materials rebidding of brick work and re-pointing of the parapet.
11. The Applicant submitted that it made sense for this work to be carried out at the same time as that to the adjoining property because the scaffolding cost would be shared, reducing costs.

12. The Applicant also stated that the matter was urgent (because of water ingress). Further, doing this work in conjunction with the adjoining property would improve control of the work to the parapet wall as a whole.
13. As to consultation with lessees, the Applicant stated that residents knew that there was a water leak and a notice of intention under section 20 of the Act had been sent.

### **The Respondents' Case**

14. Pursuant to paragraph of the Directions, each lessee was sent a proforma "form to leaseholders" to enquire whether or not they supported the application.
15. The Tribunal received responses by or on behalf of Flats 2, 3, 4 and 5. These all supported the application.

### **The Law**

Section 20ZA(1) of the Act states

"Where an application is made to [the]... tribunal for a determination to dispense with ...the consultation requirements...the tribunal may make the determination if satisfied that is reasonable to dispense with the requirements".

### **Findings**

16. The Tribunal finds that it is reasonable to grant the dispensation sought in respect of costs payable for parapet repairs of £1,704 inclusive of VAT at 20% for the following reasons.
  - i. The Tribunal is satisfied that the works were urgently needed;
  - ii. The Tribunal is satisfied that the landlord is obliged to undertake this work;
  - iii. The Tribunal accepts the Applicant's case that it is less expensive to share the cost of scaffolding with the adjoining owner;
  - iv. There have been no objections from the Respondents.

17. For the above reasons the tribunal **GRANTS** the dispensation sought.

**Informative**

18. The grant of dispensation does not affect the right of a lessee to challenge the reasonableness or payability of the service charge arising under sections 19 and 27A of the Act.

**Right to seek Permission to Appeal**

19. The Tribunal is required to set out the right of appeal against its decisions and this is addressed in the appended Guidance.

**C Norman FRICS  
Valuer Chairman**