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

**Case Reference** : LON/00BE/LDC/2013/0092  
LON/00BE/LSC/2013/0583

**Property** : 99 Kennington Park Road, London  
SE11 4JJ

**Applicant** : Mr Zvi Benveniste

**Representative** : Circle Residential Management Ltd

**Respondent** : Mr Paul Taylor (Basement Flat), Mr  
A S Ferguson (Ground Floor Flat),  
Mr A K Garland (First Floor Flat),  
Ms S W S Wong (Second and Third  
Floor Flat)

**Representative** : None

**Type of Application** : Dispensation from consultation  
requirements and determination of  
service charges

**Tribunal Members** : Judge Adrian Jack, Tribunal  
Member Duncan Jagger MRICS

**Venue of Deliberations** : 10 Alfred Place, London WC1E 7LR

**Date of Decision** : 30<sup>th</sup> October 2013

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**DECISION AND DIRECTIONS**

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### **Decision and direction of the tribunal**

- (1) The Tribunal pursuant to section 20ZA of the Landlord and Tenant Act 1985 grants dispensation from the consultation requirements in respect of the works the subject of the application.
- (2) The applications under section 27A of the said Act are adjourned **to be heard on Wednesday 12<sup>th</sup> February 2014** at 10 Alfred Place, London WC1E 7LR at 10 am, and is estimated to last 1 day.
- (3) Any party wishing to make further written representations should serve such representations with any further documents relied upon on the other parties by Monday 27<sup>th</sup> January 2013 and send **four copies** of such representations to the Tribunal by that date.

### **Procedural**

1. The applicant landlord applies for a dispensation from the consultation requirements in section 20 of the Landlord and Tenant Act 1985 and the regulations thereunder in respect of works required to repair the roof and guttering at the property.
2. The Tribunal gave directions on 18<sup>th</sup> September 2013, which provided for the case to proceed by way of a paper determination, unless any of the parties requested an oral hearing. In the event no one has requested an oral hearing and the Tribunal has proceeded to determine the matter on paper.
3. No inspection was requested and none was held.

### **Determination**

4. In the current case there was an urgent need to carry out the works. The roof and guttering were leaking. The landlord consulted as best it can with the tenants. A section 20 consultation typically takes in excess of three months. In our judgment it would have been unacceptable to leave the roof and guttering for that length of time and it appropriate to grant dispensation.
5. The Tribunal considers that the section 27A applications can only properly be determined after an oral hearing.

**Name:** Judge Adrian Jack

**Date:** 30<sup>th</sup> October 2013

## **Appendix of relevant legislation**

### **Landlord and Tenant Act 1985 (as amended)**

#### **Section 20**

- (1) Where this section applies to any qualifying works or qualifying long term agreement, the relevant contributions of tenants are limited in accordance with subsection (6) or (7) (or both) unless the consultation requirements have been either—
  - (a) complied with in relation to the works or agreement, or
  - (b) dispensed with in relation to the works or agreement by (or on appeal from) the appropriate tribunal .
- (2) In this section “relevant contribution”, in relation to a tenant and any works or agreement, is the amount which he may be required under the terms of his lease to contribute (by the payment of service charges) to relevant costs incurred on carrying out the works or under the agreement.
- (3) This section applies to qualifying works if relevant costs incurred on carrying out the works exceed an appropriate amount.
- (4) The Secretary of State may by regulations provide that this section applies to a qualifying long term agreement—
  - (a) if relevant costs incurred under the agreement exceed an appropriate amount, or
  - (b) if relevant costs incurred under the agreement during a period prescribed by the regulations exceed an appropriate amount.
- (5) An appropriate amount is an amount set by regulations made by the Secretary of State; and the regulations may make provision for either or both of the following to be an appropriate amount—
  - (a) an amount prescribed by, or determined in accordance with, the regulations, and
  - (b) an amount which results in the relevant contribution of any one or more tenants being an amount prescribed by, or determined in accordance with, the regulations.
- (6) Where an appropriate amount is set by virtue of paragraph (a) of subsection (5), the amount of the relevant costs incurred on carrying out the works or under the agreement which may be taken into account in determining the relevant contributions of tenants is limited to the appropriate amount.
- (7) Where an appropriate amount is set by virtue of paragraph (b) of that subsection, the amount of the relevant contribution of the tenant, or each of the tenants, whose relevant contribution would otherwise exceed the amount prescribed by, or determined in

accordance with, the regulations is limited to the amount so prescribed or determined.]

**Section 20ZA**

- (1) Where an application is made to a leasehold valuation tribunal for a determination to dispense with all or any of the consultation requirements in relation to any qualifying works or qualifying long term agreement, the tribunal may make the determination if satisfied that it is reasonable to dispense with the requirements.
- (2) In section 20 and this section—
  - “qualifying works” means works on a building or any other premises, and
  - “qualifying long term agreement” means (subject to subsection (3)) an agreement entered into, by or on behalf of the landlord or a superior landlord, for a term of more than twelve months.
- (3) The Secretary of State may by regulations provide that an agreement is not a qualifying long term agreement—
  - (a) if it is an agreement of a description prescribed by the regulations, or
  - (b) in any circumstances so prescribed.
- (4) In section 20 and this section “the consultation requirements” means requirements prescribed by regulations made by the Secretary of State.
- (5) Regulations under subsection (4) may in particular include provision requiring the landlord—
  - (a) to provide details of proposed works or agreements to tenants or the recognised tenants’ association representing them,
  - (b) to obtain estimates for proposed works or agreements,
  - (c) to invite tenants or the recognised tenants’ association to propose the names of persons from whom the landlord should try to obtain other estimates,
  - (d) to have regard to observations made by tenants or the recognised tenants’ association in relation to proposed works or agreements and estimates, and
  - (e) to give reasons in prescribed circumstances for carrying out works or entering into agreements.
- (6) Regulations under section 20 or this section—
  - (a) may make provision generally or only in relation to specific cases, and
  - (b) may make different provision for different purposes.
- (7) Regulations under section 20 or this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.