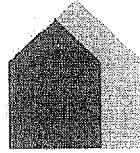


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Residential  
Property  
TRIBUNAL SERVICE

**LEASEHOLD VALUATION TRIBUNAL for the  
LONDON RENT ASSESSMENT PANEL**

**APPLICATION UNDER S 20ZA OF THE LANDLORD AND TENANT ACT**

**1985 (as amended)**

**DETERMINATION BY THE LEASEHOLD VALUATION TRIBUNAL**

**REF: LON/00AH/LDC/2010/0101**

**Address: Lyndhurst Court, 297A Whitehorse Lane,  
London SE25 6UG**

**Applicant: Lyndhurst Court RTM Limited**

**Represented by: Anjan Dutta of KDG Property Limited**

**Respondent: The lessees of Lyndhurst Court**

**Tribunal: Mrs S O'Sullivan  
Mr F Coffey MRICS**

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1. The Applicant, who is the RTM Company landlord of Lyndhurst Court, 297A Whitehorse Lane London SE25 6UG ("the Property"), has applied to the Tribunal by an application dated 29 September 2010 for dispensation of all or any of the consultation requirements contained in S20 of the Landlord and Tenant Act 1985, as amended ("the Act"). The application was made by KDG Property Limited.

2. The property is described in the application as “a three storey mid Victorian detached property converted to 10 flats”.
3. The application is made to dispense with all or any of the consultation requirements in respect of works said to be urgently required to renew a retaining wall at the front of the Property which is at risk of collapse.
4. Neither the Applicant nor any of the Respondents requested an oral hearing, and therefore in accordance with Directions issued by the Tribunal on 5 October 2010, this matter was dealt with by way of a paper determination, which was considered on 9 November 2010. A bundle of documents was lodged in support by the Applicant. No written representations were received from any of Respondents.

### **The Applicant’s case**

5. The Applicant’s grounds for seeking dispensation as set out in the application were *“the front perimeter retaining wall at Lyndhurst Court that runs adjacent to the pavement on Whitehorse Lane has sustained significant structural damage due to the close proximity of trees and their associated roots. There is a large crack in the wall and the wall is visibly leaning outwards towards the pedestrian footpath. As the wall overlooks the highway the hazard is deemed to be great and the risk determined to be high. Works to this wall temporary or permanent are thought to be imperative”*.
6. In respect of consultation which had been carried out, it was said *“all residents have been told about the unsafe structures in the property in informal newsletters. No formal consultation has been undertaken relating specifically to the wall”*.

### **The Tribunal’s determination**

7. The Tribunal has had confirmation of the condition of wall from KDG Surveying and Engineering by letter dated 15 July 2010 which also sets out recommendations in respect of the works required. The Tribunal has also been provided with copies of photographs of the wall which show the lean. The Tribunal does note that although the report was obtained in July 2010 the application for dispensation was not made until September. In this time period alone full consultation could have taken place.
8. 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. None of the lessees has indicated that they oppose the application.

9. In the circumstances of this particular case, it is clear from the documentation that the wall is in need of urgent repair. Bearing in mind the potential danger arising to both lessees and members of the public the Tribunal considers that it is reasonable to grant dispensation in these circumstances.
10. Accordingly the Tribunal determines that those parts of the consultation process which have not been complied with **may be dispensed with** pursuant to section 20ZA of the Act.
11. 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.....

Dated .....