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

Landlord and Tenant Act 1985 – Section 20ZA

LON/00AX/LDC/2011/0091

Property	1-14 Carrington Court, 39 Kingston Road, Surrey, KT3 3PE
Applicant	Kingston Road (New Malden) Management Company Limited (Landlord)
Represented by	RMG
Respondents (tenants)	CH Gim and Y H Lang (1) Mr Choon Bae Lee (2) Mr and Mrs M H Patel (3) Mr T Saayman and Ms N C Noone (4) Mr and Mrs S M Akram (5) Z M Mulla-Ali (6) Mr and Mrs Carswell (7) Illius Properties Ltd (8) I and D Taylor, T J and Hal (9) Z M Mulla Ali (10) Mr S Frearnley (11) Hakkem Olumide Balogn and Lisa Balogum (12)

Y-Soon An (13)
Mrs C Kiernan (14)

Represented by **Not represented**

Date of Application: **31 August 2011**
Date of receipt of Application **16 September 2011**
Date of Determination **21 November 2011:**
Date of Decision **22 November 2011**

Tribunal **Mr John Hewitt** **Chairman**
 Mr P S Roberts **Dip Arch, RIBA**
 Mr L G Packer

Decision

1. The decision of the Tribunal is that: the requirement for compliance with the consultation requirements provided for in s20 of the Landlord and Tenant Act 1985 ('the Act') shall be dispensed with in relation to the works referred to in the Application.

Background

2. The Applicant is the landlord of a block of 14 flats. An inspection carried out by Messrs Action Pumps Ltd of Waterlooville, Hampshire on 14 April 2011 identified that the water pressure booster pump was in poor condition and in need of replacement. On the same day, Action Pumps Ltd provided a quotation for the supply of a replacement pump and its fitting by Messrs Express Water Tanks & Mechanical Services Ltd, at a cost of £8,109.94 including VAT. The back-up system was activated, but the Applicants were advised that it was intended only for use during replacement, and not long term.

3. According to the Applicant (no documents being provided), the Applicant raised a purchase order on the quotation on 6 June 2011, for the work to be carried out in the first week of August 2011. However, the

contractor subsequently reported that there was a delay in supply of the parts, and that the work would commence on 5 September. The papers are silent on whether the work has been carried out.

4. The project constituted 'qualifying works' in terms of the consultation requirements of the Act, but the Applicant concluded when the order was placed in June that the work was too urgent for consultation to be feasible, and that it would seek dispensation under s 20ZA.

5. An application was made, dated 31 August but received on 16 September 2011.

The determination

6. The Tribunal issued Directions on 19 September, proposing a determination on the basis of written representations. It specified that all tenants be invited to indicate whether or not they supported the application, and whether they wished a hearing.

7. Responses were received from 9 of the 14 tenants. Whilst one respondent - the tenants of Flat 1 - ticked the box asking for a hearing, the Tribunal took this as a mistake, since they also ticked the box indicating '*I/we are content to decide on the basis of written representations*'.

8. The Tribunal accordingly made its determination on this basis.

9. All 9 respondents who replied said they supported the Landlord's application.

The law

10. Section s20ZA of the Act provides that:

(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 worksthe tribunal may make the determination if satisfied that it is reasonable to dispense with the requirements.

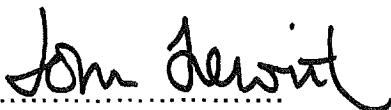
Findings

11. Whilst we accept that replacement of the booster pump was needed, and that the back-up system was intended for only emergency use, the Applicant could have begun consultation when the problem had been identified, and completed it by mid-July, before the initial date when the work was expected to start, namely the first week in August, let alone the revised start date of 5 September. The tenants would then have been fully aware of their opportunity to comment on the proposed works; more than one estimate would have been sought; and the tenants would have had the opportunity to nominate tenderers.

12. Alternatively, there could have been an earlier application for dispensation, rather than at the end of August.

13. Nonetheless the Tribunal notes that 9 of the 14 respondent tenants have indicated that they support the application, and none has objected.

14. Bearing in mind also that it will be open to any respondent tenant to challenge the reasonableness of the works and their costs under s27A of the Act, we are satisfied that they have not been materially prejudiced by the failure to consult, and that it is reasonable to dispense with the requirements to consult under s20 of the Act.



John Hewitt

Chairman

22 November 2011