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LONDON RENT ASSESSMENT PANEL-

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DECISION ON AN APPLICATION UNDER SECTION 20ZA LANDLORD  
AND TENANT ACT 1985

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Ref: LON/00AW/LDC/2012/0119

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**Property:** 22 Collingham Gardens, London SW5 0HL

**Applicant:** 22 Collingham Gardens Limited

**Respondents:** The leaseholders of the 9 flats as listed on the attached sheet

**Determination date:** 28<sup>th</sup> November 2012

**Tribunal:** Mr P Korn  
Mr P Tobin FRICS MCI Arb

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**BACKGROUND**

1. The Applicant is the Respondents' landlord at the Property. The Property is a converted building comprising 9 flats, all held on long leases.
2. On 17<sup>th</sup> October 2012 the Tribunal received an application from the Applicant seeking dispensation from certain of the consultation requirements imposed by Section 20 of the Landlord and Tenant Act 1985 (as amended) ("**the Act**") in respect of certain qualifying works.
3. Directions were issued on 24<sup>th</sup> October 2012, and the Procedural Chairman determined that the application should be dealt with by the Tribunal on the basis of the papers alone (i.e. without an oral hearing) unless any party required the matter to be decided in a hearing. No request for a hearing has been received and therefore the application is being determined on the papers alone.

## THE APPLICANT'S CASE

4. The works which form the subject of the application are stripping the roof coverings including all flashings and repairing sub-strata as necessary, applying insulation to meet current building regulations, covering with proprietary roof system, and renewing all flashings and coverings.
5. The Applicant states that roof has failed and is causing considerable damage to the flats on the upper levels. The Applicant submits in its application that if the work is not carried out shortly the damage will be extensive and the residents will be forced to seek temporary alternative accommodation.
6. Stage 1 Section 20 notices were sent to all of the Respondents on 8<sup>th</sup> October 2012. These notices contained a breakdown of the proposed works, alternative quotations and a recommendation to proceed with a particular contractor. All directors of the Applicant company were consulted and they agreed that an application for dispensation should be made but that a back-up consultation process should also be commenced.
7. The Tribunal has also seen a copy of an inspection report on the roof.
8. Since the date of the application Ms A McGrandles of MJS Block Management has written to the Tribunal by an email dated 31<sup>st</sup> October 2012 stating that water is still penetrating Flat 9 and that the insurers have written to her stating that they do not consider that they will be liable for the cost of any further damage occurring whilst the application to the Leasehold Valuation Tribunal is being processed. With this in mind she states that in her view the Applicant has no option but to proceed with the work. If in fact the work has already commenced then the significance of this in relation to the application is that it becomes a **retrospective** application for consent.

## RESPONDENTS' RESPONSES

9. The leaseholders of Flats 1, 2, 3, 4, 5, 8 and 9 have written to the Tribunal stating that they do not oppose the application. No response has been received from the leaseholders of Flat 6 or Flat 7.

## THE LAW

10. Under Section 20(1) of the Act, in relation to any qualifying works "*the relevant contributions of tenants are limited ... unless the consultation requirements have been either (a) complied with ... or (b) dispensed with ... by ... a leasehold valuation tribunal*".
11. Under Section 20ZA(1) of the Act "*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..., the tribunal may make the determination if satisfied that it is reasonable to dispense with the requirements”.*

## **APPLICATION OF FACTS TO LAW**

12. In its application the Applicant has clearly identified the works needing to be carried out and the reasons for the urgency. It has carried out such part of the consultation process as the Tribunal considers that it reasonably could have been expected to carry out in the circumstances of the urgency of the works. The Stage1 notice is clear and helpful, and the directors have in the Tribunal’s view exercised their discretion sensibly in adopting a twin-track approach of seeking dispensation whilst also embarking on the consultation process.
13. The subsequent decision to proceed with the works in the light of the worsening position and the correspondence with the insurers seems to the Tribunal to be prudent in the absence of any evidence casting doubt on the Applicant’s and its agents’ analysis of the position. The leaseholders of 7 out of 9 flats have taken the trouble to confirm that they do not oppose the application, whilst the leaseholders of the other 2 flats have not raised any objections.
14. The Tribunal considers the Applicant’s evidence to be credible and is impressed with the manner in which the Applicant has approached this issue. The Tribunal accepts, on the basis of the evidence supplied, that the works are sufficiently urgent that it is reasonable to dispense with the remainder of the consultation requirements in relation to those works.

## **DETERMINATION**

15. Accordingly, the Tribunal hereby determines to dispense with those of the consultation requirements not yet complied with in relation to the works which are the subject of this application.
16. For the avoidance of doubt, this determination is confined to the issue of consultation and does not constitute a decision on the reasonableness or otherwise of the cost of the works.
17. No cost applications have been made.

Chairman:  P Korn

Dated: 28<sup>th</sup> November 2012