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

Case Reference : LON/0086/LDC/201/0107

Property : 5 Melbourne Grove London SE22 8 RG

Applicant : Rendgrove Limited

Representative : Hamways Limited

Respondent : Mr M Dorrell
Mr R O'Rourke

Representative : Not represented

Type of Application : For dispensation from the provisions of the consultation requirements in respect of major works

Tribunal Members : Judge Peter Leighton LLB

Date and venue of Hearing : 10 Alfred Place, London WC1E 7LR

Date of Decision : 20th November 2013

DECISION

Introduction

- 1 The landlord Rendgrove Properties seeks dispensation from the tribunal from the consultation requirements imposed by the 2003 Consultation Requirements Regulations to carry out major works to the property at 5 Melbourne Grove London SE22 8RG
- 2 There are three flats within the building. One of the flats is held by the freeholder and the other two are demised on long leases to the Respondents.
- 3 Hamways were appointed managing agents in May 2013 and carried out an inspection of the property which revealed that there was cracking to the front elevation
- 4 A further inspection was carried out on 17th September 2013 which revealed that the cracks were now very serious and likely to result in possible falls of material onto the highway causing danger to residents and or members of the public.
- 5 Following a survey two estimates were obtained for the works required which included removing the defective rendering .builders were instructed to complete emergency works
- 6 The costs of the works were £1750 plus VAT and have been paid. As each of the leaseholders is liable for one third of the costs their share would exceed £250 and it was necessary either to comply with the regulations on consultation or seek dispensation
- 7 The landlords have written to the leaseholders and informed them of the situation and they appear to have agreed.
- 8 Following directions they were invited to return the acknowledgement and Mr O'Rourke has formally consented to the dispensation and no objection has been received from Mr Dorrell
- 9 In the circumstances the tribunal is of the opinion that the landlord has acted reasonably and further that it would be reasonable to dispense with the requirements of the regulations in the light of the emergency. The tenants have accepted this and in the view of the tribunal are not prejudiced by the action taken
- 10 Accordingly dispensation is granted

Name: Peter Leighton

Date: 20th November 2013

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) a leasehold valuation 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.]

**Leasehold Valuation Tribunals (Fees)(England) Regulations
2003**

Regulation 9

- (1) Subject to paragraph (2), in relation to any proceedings in respect of which a fee is payable under these Regulations a tribunal may require any party to the proceedings to reimburse any other party to the proceedings for the whole or part of any fees paid by him in respect of the proceedings.
- (2) A tribunal shall not require a party to make such reimbursement if, at the time the tribunal is considering whether or not to do so, the tribunal is satisfied that the party is in receipt of any of the benefits, the allowance or a certificate mentioned in regulation 8(1).