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

**Case Reference** : CHI/43UF/LDC/2014/0010

**Property** : 4-9, Garton Bank, Banstead,  
Surrey SM7 2HA

**Applicant** : Raven Housing Trust

**Representative** :

**Respondents** : Mr M and Mrs G Crawley  
Mr and Mrs Leow  
Ms K Hill

**Representative** :

**Type of Application** : Dispensation with Consultation  
Requirements: section 20ZA  
Landlord and Tenant Act 1985

**Tribunal Members** : Judge D Agnew

**Date and venue of  
Hearing** : Paper Determination  
11<sup>th</sup> June 2014  
The Tribunal office, Chichester

**Date of Decision** : 11<sup>th</sup> June 2014

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**DECISION**

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1. On 6<sup>th</sup> March 2014 the Applicant applied to the Tribunal for dispensation from the whole of the consultation requirements set out in section 20 of the Landlord and Tenant Act 1985 ("the Act") where qualifying works had been carried out to a building where the cost of those works will exceed £250 for any tenant. The proposed works in this instance were the replacement of roof tiles that had been stripped off the roof in the recent gales. Some tiles had been found embedded into the ground near to the building. There had evidently been a serious risk to the health and safety of residents and passers-by. The Applicant considered that repairs were required to be effected urgently. Lessees had been informed of what the Applicant intended to do by way of repair but the Applicant considered that the works were too urgent to enable them to carry out the statutory consultation procedure. The total cost of the works was in the region of £4,000 meaning that each lesse's contribution towards the cost was £800.

2. The Respondent lessees were invited to respond to the application by advising the Tribunal as to whether they supported or opposed the application. They were also advised that the Tribunal intended to deal with the application on the basis of written submissions only without an oral hearing unless a party objected within 28 days of receipt of the directions. No one objected to this proposed procedure and no lessee responded by opposing the application.

### **The Law**

3. Section 20ZA of the Act provides that the Tribunal may make a determination to dispense with all or any of the consultation requirements in relation to any qualifying works if it is satisfied that it is reasonable to dispense with them. In the recent Supreme Court case of *Daejan Properties v Benson* [2013] UKSC 14 it was held that the purpose of section 20 consultation was to try to ensure that where lessees were being required to pay in excess of £250 under the terms of their leases for such works that they are not required to pay for unnecessary services or services which are provided to a defective standard or to pay more than they should for services that are necessary and are provided to a satisfactory standard. An application for dispensation should only be refused if the lessees can show that they are prejudiced by such a dispensation.

### **The Determination**

4. In this case none of the lessees have objected to the application. There was evidently a need for the work to be carried out urgently in order to avoid the continuing danger from falling tiles and water ingress into the property. There is no evidence that the lessees would be prejudiced if the consultation requirements are dispensed with.

5. The Tribunal therefore determines that it is reasonable to dispense retrospectively with the consultation provisions of section 20 of the Act in this case.

6. The Tribunal emphasises that at this stage it is making no judgment as to the reasonableness of the cost of the works which would be open to challenge at a

later stage under section 27A of the Act should a lessee consider that the cost for the work done is unreasonable or that it is done to an unreasonable standard.

### Appeals

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application to the First-tier Tribunal at the Regional office which has been dealing with the case.
2. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.
3. If the person wishing to appeal does not comply with the 28-day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28-day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.
4. The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking.

Dated the 11<sup>th</sup> June 2014

Judge D. Agnew

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