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**LONDON RENT ASSESSMENT PANEL
LEASEHOLD VALUATION TRIBUNAL**

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

Ref : LON/00AN/LDC/2010/0067

Property: 45 Goldhawk Road, London W12 8QD

Applicant: Buyis Properties Ltd

Respondents: Shepherds Bush Housing Association

Decision date: 18th August 2010

Tribunal: Mr P Korn (Chairman)
Mr M Mathews FRICS

BACKGROUND

1. On 14th July 2010 the Tribunal received an application from the Applicant seeking dispensation from the consultation requirements imposed by Section 20 of the Landlord and Tenant Act 1985 (as amended) ("**the 1985 Act**") in respect of qualifying works.
2. The works concerned are repairs to the external staircase, which are considered by the Applicant to be urgent.
3. The Applicant states that it is the freehold owner of the Property. The Applicant further states that the only unit at the Property which has been

sold on a long lease is the top floor flat known as 45A and that it is believed to be jointly owned by the Respondent and Mr N Best.

4. Directions were issued on 22nd July 2010. The Tribunal Chairman considered that the matter could be decided without an inspection, and that it might not be necessary for the Respondent to attend the hearing. In the event, neither the Applicant nor the Respondent attended.
5. Although the Applicant stated that it believed that the long lease of 45A was held jointly between the Respondent and Mr N Best, no reference is made to Mr Best in the Directions and the Tribunal has seen no other reference to, or correspondence with, Mr Best. The correspondence from the Respondent does not suggest or imply that the long lease is co-owned and therefore the Tribunal's working assumption (in the absence of better evidence) is that Shepherds Bush Housing Association – represented by Mr C White – is the sole Respondent.

THE APPLICANT'S CASE

6. The Applicant has provided very little information. Its position is that the top floor flat is accessible only via the external staircase and that work is urgently required to that staircase to replace missing stair tread(s), repair and secure loose stair treads, strengthen stair landings and repaint the staircase.

THE RESPONDENT'S RESPONSE

7. Whilst the Respondent has raised certain concerns in relation to management fees and in relation to alleged previous neglect of the Property, as well as the apportionment of liability for the works, it has expressly confirmed that it supports the application for dispensation from complying with the relevant Section 20 consultation requirements.

THE LAW

8. Under Section 20(1) of the 1985 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*".
9. Under Section 20ZA(1) of the 1985 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

10. The Applicant impliedly accepts that the works concerned are qualifying works within the meaning of Section 20(1) and Section

20ZA(1) of the 1985 Act and that these provisions therefore apply to the works.

11. Section 20ZA of the 1985 Act does not specify in detail the basis on which the Tribunal is to exercise its discretion to dispense with the consultation requirements. Case law indicates that the need to carry out work urgently is regarded as the classic case justifying dispensation, but dispensation has been given in other situations, for example where a landlord has been able to demonstrate a real attempt to comply and/or substantial compliance, in circumstances where it seems that the element of non-compliance has not prejudiced the leaseholders in practice.
12. In this case, it seems that there has been either no compliance or very little compliance with the consultation requirements. Whilst it is difficult to know in the absence of better quality evidence and without the parties attending the hearing, it may be that the Applicant could have begun the process much sooner and that, therefore, by this stage could already have been through all or a substantial part of the consultation process.
13. However, in the Tribunal's view, the key issues are the current degree of urgency and the interests of the Respondent. It seems to be common ground between the parties that the works are urgently required and that the Respondent's flat is only accessible via the relevant staircase. It is also noted that there are missing or loose stair treads and the Tribunal accepts that the work would seem to be urgently required. Crucially, the Respondent has expressly confirmed that it supports the application for dispensation.
14. In the light of the work being urgent and the Respondent supporting the application for dispensation the Tribunal considers that the consultation requirements can be dispensed with in their entirety. In coming to this decision, the Tribunal is relying on the evidence presented to it that there are no interested parties other than those of which it has been given details.

DETERMINATION

15. The Tribunal hereby determines to dispense with the consultation requirements in their entirety in respect of the works that are the subject matter of this application.
16. No cost applications have been made.

Chairman:  P Korn

Dated: 18th August 2010