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

**DETERMINATION BY THE LEASEHOLD VALUATION TRIBUNAL**

**APPLICATION UNDER S 20ZA OF THE LANDLORD AND TENANT ACT 1985,  
as amended**

**REF: LON/00AW/LDC/2010/0062**

**Address: Flat 137A Portobello Road, London W11 2DY**

**Applicant: Gateson Ltd.**

**Representatives: Edissons, Chartered Surveyors, managing agents**

**Respondent: Ms Emma Haine and Ms Susan Haine**

**Tribunal: Mrs JSL Goulden JP  
Mr W J Reed FRICS**

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1 The Applicant, who is the landlord of Flat 137A Portobello Road, London W 11 2DY ("the property"), has applied to the Tribunal by an application dated 25 June 2010, and received by the Tribunal on 28 June 2010, for dispensation of all or any of the consultation requirements contained in S20 of the Landlord and Tenant Act 1985, as amended ("the Act").

2. The property is described in the application as a Victorian two storey terrace property with retail premises on part of the ground floor and residential on part of the ground floor and first and second floors.

3. A copy of the Respondents' lease, dated 28 March 1995 and made between Gatesun Ltd (1) and Abdul Zein and Sabine Zein (2) was provided to the Tribunal under which the property demised to the Respondent was part ground floor and first and second floors.

4. Neither the Applicant nor either of the Respondents requested an oral hearing, and therefore in accordance with Directions issued by the Tribunal on 22 July 2010, this matter was dealt with by way of a paper hearing, which was held on 7 September 2010. Written representations were received on behalf of the Applicant from Edissons, its Chartered Surveyors. No written representations were received from either of Respondents. The Tribunal's Directions indicated that the

Procedural Chairman did not consider that an inspection of the property would be of assistance to the Tribunal.

### **The Applicant's case**

5. The works to be carried out were described in the application as *"repairs are required to the east (front) facing elevation wall to repair deteriorated render. Scaffolding will be required from ground level to roof level to ensure the work is undertaken in a safe manner. The works will consist of removal of deteriorated render to the upper wall at roof level and the lower section above the retail sign"*.

6. The Applicant's grounds for seeking dispensation as set out in the application were *"the deteriorating render is a health and safety issue, not only to the tenants but the members of the public as render is falling on the public footpath. As scaffolding is required for the urgent works it would be prudent and cost effective for all the parties for the entire works to the windows and east facing elevation wall are undertaken whilst the scaffolding is in situ. We have obtained one quote to repair from one of our approved contractors and awaiting a second quote from another. Due to the nature of repairs and health and safety issues, we intend to instruct a contractor to commence works as a matter of urgency once the second quote is received"*.

7. In respect of consultation which had been carried out, it was said *"we have written to the residential tenant that urgent works are required to the external elevations where it would be cost effective for all parties to undertake the redecoration to the timber frame windows and the rendered elevation wall (excluding the shop front) whilst the scaffolding is in situ"*.

8. Following issue of the Tribunal's Directions of 22 July 2010, a letter dated 16 August 2010 and received by the Tribunal on the same date, was sent to the Tribunal by Edissons, the Applicant's managing agents. This enclosed a copy of the schedule of the proposed works together with estimates from three contractors. It was stated that since the application had been lodged, the Applicant's building surveyor had inspected the building and additional repairs (as set out in the letter of 16 August 2010) were noted to the main roof, rear flat roof and front elevation. It was also stated that the water damage caused by the deteriorated elevation wall had stained the wall and ceiling in the residential front bedroom on the second floor and therefore quotations were obtained to redecorate the walls and ceiling thereof with emulsion paint. Quotations for minor external repairs were also noted.

### **The Respondents' case**

9. As stated above, no written representations were received from either of the Respondents.

### **The Tribunal's determination**

10. A copy of the application was sent to the Respondents by the Tribunal and the Applicant's representatives confirmed by their letter to the Tribunal dated 16 August 2010 that a copy of the Tribunal's Directions had been issued to the

Respondents. The Tribunal has received no communication from the Respondents.

11. The Tribunal must have a cogent reason for dispensing with the consultation requirements, the purpose of which is that tenants who may ultimately foot the bill are fully aware of what works are being proposed, the cost thereof and have the opportunity to nominate contractors.

12. The Tribunal has taken into account that water penetration has occurred to the residential unit and, with winter approaching, it is not unreasonable to assume that damage to the building will be exacerbated. Although some works to be carried out could not strictly be classed as emergencies, the Tribunal accepts the Applicant's argument that, with scaffolding up, it would be prudent and cost effective to carry out redecoration works at the same time.

13. Accordingly the Tribunal determines that the consultation requirements of S20 of the Act as set out in The Service Charges (Consultation Requirements) (England) Regulations 2003 which have not been complied with may be dispensed with.

**14. It should be noted that in making its determination, and as stated in Directions, this application does not concern the issue of whether any service charge costs are reasonable or payable by the lessees. The Tribunal's determination is limited to this application for dispensation of consultation requirements under S20ZA of the Act.**

CHAIRMAN.....

DATE .....7 September 2010.....