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

Case reference	: LON/ooBE/LDC/2014/0165
Property	: 26 Barry Road London SE22 0HU
Applicant	: Southern Land Securities
Representative	: Hamilton King Management Ltd
Respondent	: Ms N Middleton (Flat A) Ms S Amurun (Flat B) Dr B Adams & Dr H Adams (Flat C) Mr & Mrs T Buckley (Flat D)
Representative	: none
Type of application	: To dispense with the requirement to consult lessees about major works/ a long-term agreement
Tribunal member	: Judge J E Guest
Date and venue of paper determination	: 03/02/2015 at 10 Alfred Place, London WC1E 7LR
Date of decision	: 03/02/2015

DECISION

Decision of the Tribunal

**The Tribunal makes the dispensation order under section 20ZA of the
Landlord and Tenant Act 1985.**

The application

1. The Applicant seeks an order pursuant to s.20ZA of the Landlord and Tenant Act 1985 (as amended) ("the 1985 Act") for the dispensation of the consultation requirements in respect of additional urgent works that the Applicant says became necessary during the course of major works to repair the roof, repair the exterior and redecorate. The property concerned is 26 Barry Road, London SE22 0HU, which is an Edwardian terraced house converted into four separate self-contained dwellings (Flats A, B, C and D) with front and rear communal gardens. The application is made against the leaseholders of Flats A, B, C and D.
2. The issue in this case is whether the consultation requirements of section 20 of the 1985 Act should be dispensed with given that urgent works were said to be necessary to (a) demolish and rebuild the first floor rear addition and (b) to investigate and remedy defects to dormer windows.

The background

3. On 03/03/2014, the Applicant commenced a consultation process with the Respondents in relation to roof and external repairs and redecoration that the Applicant intended to carry out to the property. No written observations were received in response to the notice of intention to undertake these works. On 28/04/2014, the Respondents were informed by the Applicant that the works were going out to tender and, on 27/05/2014, the Respondents were served with estimates. The Respondents did not raise any observations to the works. A contract for works totalling £38,369.00 commenced on 22/09/2014.
4. On 13/11/2014, the Applicant says it received information from its RICS surveyors, Langley Byers Bennett, that further works had come to light during the course of the major repair works. The Applicant states that it was found that the first floor rear addition needed to be demolished and rebuilt. The first floor rear addition is identified on the lease plan and it provides the building with structural integrity.
5. At this time, the Applicant says it also discovered an additional problem. The Applicant's contractors and surveyors recommended a more detailed and intrusive survey of the dormer windows, which were found to be defective, as they breached current Building Regulations and were causing water ingress. As a result, it was found that urgent works were required to ensure the integrity of the dormers and to ensure that they were watertight.
6. The Applicant informed the Respondents of the above issues by letter dated 16/12/2014. The Applicant states that the additional works are estimated to cost £9,000.00, although the Applicant states that there is

also a saving of approximately £3,250.00 in carrying out the additional works whilst scaffolding is in situ.

7. The application, dated 16/12/2014, was received by the Tribunal on 18/12/2014. Directions were made by Judge Barran on 05/01/2015, which requested that the Respondents indicate by 14/02/2015 whether they consented or objected to the application and whether they wished to have a hearing. Mr & Mrs Buckley of Flat D sent an email to the Applicant's Major Works Co-ordinator, Karen Young, on 14/01/2015 stating that they consented to the application. There has been no response from the other Respondents. As there was no request by any Respondent for an oral hearing, the application proceeded as a paper determination.
8. The Tribunal did not consider that an inspection was necessary and it would not have been proportionate to the issues in dispute.
9. The Respondents each hold long leases to the flats/houses. The leases require the landlord to provide services and the tenant to contribute towards their costs by way of a variable service charge.

The issues

10. The only issue before the Tribunal is whether it should grant dispensation from all or any of the consultation requirements contained in section 20 of the 1985 Act.

The Applicant's case

11. The Applicant filed a bundle in accordance with the directions dated 05/01/2015. This included the original specification for the major works, the consultation documents regarding those works, estimates for the additional works and its correspondence with the Respondents regarding the additional works.

The Respondents' position

12. The directions provided that any Respondent who wished to oppose the application for dispensation serve a Statement of Case. None of the Respondents served any Statements of Case.

The Tribunal's decision

13. The Tribunal determines that an order from dispensation under section 20ZA of the 1985 Act shall be made dispensing with all of the consultation requirements in relation to the additional works outlined above.

Reasons for the Tribunal's decision

14. The Tribunal has the jurisdiction to grant dispensation under section 20ZA of the 1985 Act "*if satisfied that it is reasonable to dispense with the requirements*".
15. In making its decision, the Tribunal had regard to the fact that the additional works were found during the course of major works being undertaken to the property and that they defects were urgent since there were concerns over the integrity of the property and problems of water ingress. It was also noted that there were savings to be made by arranging for the additional works to be undertaken at a time when scaffolding was already in place.
16. The Tribunal would stress that it is not making any assessment of the reasonableness of the charges or whether the works fall with the Applicant's repairing obligations under the terms of the lease. A challenge to the charges may still be raised under section 27A of the 1985 Act in the future.

Signed: **J E Guest**

Dated: **03/02/2015**