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

Case Reference : **LON/00BG/LSC/2015/0007**

Property : **Fawe B Studios, Fawe Street
London E14 6PD**

Applicant : **Fawe B Studios Limited**

Representative : **Ringley Legal**

Respondent : **ALL LESSEES AS PER
APPLICATION**

Representative : **n/a**

Type of Application : **For dispensation from the
consultation requirements
required by section 20 of the
Landlord and Tenant Act 1985**

Tribunal Members : **Judge Carr**

Date of Decision : **19th February 2015**

DECISION

Decision of the Tribunal

1. The Tribunal determines to exercise its discretion to dispense with the consultation requirements contained in Part 2 of Schedule 4 to the Service Charges (Consultation Requirements) England) Regulations 2003.

The Application

2. Ringley Legal, on behalf of the freeholder of the premises, Fawe B Studios Limited, applied on 14th January 2015 under section 20ZA of the Landlord and Tenant Act 1985 for dispensation from the consultation requirements contained in Part 2 of Schedule 4 to the Service Charges (Consultation Requirements) England) Regulations 2003.

Procedure

3. The Tribunal held a case management review of this matter on 16th January 2015 and issued directions on the same date. In those directions it was decided that in view of the urgency of the application the matter should be determined on the basis of written representations and without an oral hearing.
4. The Directions gave an opportunity for any party to request an oral hearing. They also gave an opportunity for any leaseholder who wishes to oppose the application from the landlord to provide a statement to the Tribunal setting out his or her reasons for so doing. None of the parties requested an oral hearing and therefore the matter is being determined on the basis of the documents provided.

Determination

The Evidence

5. The evidence before the Tribunal indicates as follows:
 - a. The chimney stack to Fawe B Studios is damaged and there is a risk of falling masonry. The report produced by Alex Banyard MRICS on behalf of the Applicant on 25th November 2014 indicates that in recent times, the crown of the chimney was repaired by rendering badly spalling soft red brickwork with coloured cement mortar. The report explains that the work was carried out without proper preparation of the brickwork, or metal dowels or re-enforcing mesh to act as a proper key for the

render, and the render is now cracking. It has detached and fallen from a great height in some areas, and the remainder is becoming more detached and potentially dangerous.

- b. The local authority, Tower Hamlets, were informed of the unsafe condition of the chimney and the Applicant was advised to cordon off the area below, which has been done.
- c. Ringley Limited, who are appointed to manage the property issued a stage 1 Section 20 Notice on 20th September 2014 in connection with proposed works to the chimney. However, following the report from Mr Banyard on 25th November, it applied to the Tribunal for dispensation from the section 20 processes due to the urgent nature of the works and the danger to the public if the chimney is not made safe immediately.
- d. Following the issue of directions, the managing agents communicated with all of the lessees about the proposed works and their urgency.
- e. The Tribunal received 8 responses from lessees in connection with the application. 7 of the responses indicated that the lessees supported the application. One of the lessees, Ms Joan Key had some caveats. Whilst Ms Key states that she does not object in principle to the works, she has concerns relating to the unreliability of the estimates, the inefficient use of monies spent on scaffolding, and the indication within the papers that directors whose property is adjacent to the chimney, may have an interest in extending their units into the area of the chimney.

The Law

- 6. The Tribunal is being asked to exercise its discretion under s.20ZA of the Act. The wording of s.20ZA is significant. Subs. (1) provides:

“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 or qualifying long term agreement, the tribunal may make the determination **if satisfied that it is reasonable to dispense with the requirements**” (emphasis added).

The Tribunal's decision.

- 7. The Tribunal determines to grant the application.

The reasons for the Tribunal's decision.

8. The Tribunal agrees with the Applicant that the works are urgent, in particular with regard to the risk to the public.
9. The dispensation is limited to the urgent works of repair and not to further works to the chimney. This limitation together with the ability of the lessees to apply to the Tribunal under s.27A of the Landlord and Tenant Act 1985 provide a response to Ms Key's concerns.

The parties should note that this determination does not concern the issue of whether any service charge costs will be reasonable or indeed payable. The Respondents are able, if it appears to them to be appropriate, to make an application under s.27A of the Landlord and Tenant Act 1985 as to reasonableness and payability.

Signed Judge Carr

Dated 19th February 2015