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

Case Reference : LON/00AJ/LDC/2016/0091

Property : 62, Grafton Road, Acton, London,
W3 6PD

Applicant : Mr T Galvin

Representative : Michael Richards & Co

Respondents : Mr B Hardy & Ms P Darcy (Flat 1)
Mr S F Cooney (Flat 2)
Ms A G Duggan (Flat 3)

Representative :

Type of Application : To dispense with the statutory
consultation requirements

Tribunal Members : Mrs H Bowers, MRICS

**Date and venue of
Consideration** : 26 October 2016, 10 Alfred Place,
London WC1E 7LR

Date of Decision : 26 October 2016

DECISION

The Tribunal grants the application for dispensation from further statutory consultation in respect of the subject works. For clarity the works are the roof repair works carried out to prevent water ingress into the top floor flat.

REASONS

The Application

1. The Applicant seeks a determination pursuant to section 20ZA of the Landlord and Tenant Act 1985 ("the Act") dispensing with statutory consultation in respect of major works.
2. 62, Grafton Road, Acton, London, W3 6PD (the subject property) is described as a converted Victorian end of terrace house which has a communal side entrance leading to a small communal hallway and staircase. It appears that the property comprises of three flats. The Applicant, Mr Galvin is the landlord of the subject property and the Respondents are the leaseholders of the three flats within the subject property.
3. The application is dated 1 September 2016. Directions were issued by the Tribunal on 9 September 2016. The Directions initially listed the matter for a paper determination for the week commencing 3 October 2016, unless any party made a request for a hearing. There was no request for a hearing. It appears that there was some confusion as to when the bundle for the Tribunal's consideration was sent. The Applicant/landlord re-sent the bundle on 20 October. Consequently the consideration of this case was delayed until 26 October 2016.
4. The application seeks dispensation in respect of emergency roof repair works to the building. It was explained that there was a serious leak from the roof into the top floor flat. There was no direct access to the roof so the repairs had to be undertaken by the means of the erection of scaffolding. No formal consultation was undertaken but the agents had written to the leaseholders explaining the situation and that an application for dispensation had been sought. In the Applicant's statement of case the history of this problem was detailed. A report had come from the leaseholder of the top floor flat in respect of water ingress. A contractor had attended the property and as the property was over three storeys in height, scaffolding had to be used to obtain access. Permission had been sought from the leaseholders of the ground floor flat in respect of the erection of the scaffolding. The contractor's inspection of the area revealed that the roof felt had reached the end of its functional life and that the coping stones on the roof and chimney had missing pointing.
5. Included in the bundle is a copy of a letter that was sent to all the leaseholders in the subject property dated 10 August 2016. The letter explained the nature of the works and that as they had been of an urgent nature, that the works had already been completed. It indicated that the contractor was S F Hunter and that the total cost was £2,495.00. It was further explained that the agents had not pursued an insurance claim due to the problem arising from general wear and tear rather than from an insurable event such as storm damage. The letter then stated that a retrospective application had been made for dispensation from the consultation process.

6 The bundle also included various photographs showing the condition of the roof and the structural detail of adjoining wall areas. There was also an invoice from S F Hunter. The invoice was dated 21 July 2016 and was for the total sum of £2,495.00. The work described in the invoice was for the supply of scaffolding for access, stripping off the flat roof areas over the dormer and kitchen and applying a three-layer Torch-On felt, fixing new flashings over the kitchen roof and to hack out sand and cement render to the front slope parapet wall and to re-cement.

7. The Directions invited any Respondent/leaseholder who opposed the application to submit a response form to the Tribunal and to make any statement of response to the Applicant/landlord by 26 September 2016. No forms were received by the Tribunal and no statement of response was included in the bundle. Accordingly, it appears that none of the Respondents oppose the application.

Determination

8. Section 20ZA(1) of the Act 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.”

9. The Tribunal has taken account the decision in *Daejan Investments Ltd v Benson and others* [2013] UKSC 14.

10. As mentioned above there has been no engagement from any of the Respondents in respect of the application that would suggest that the works are not necessary and/or ought to have been the subject of full statutory consultation.

11. The description of the problem and the impact that the water ingress would have had upon the leaseholder of the top floor flat is sufficient evidence that the subject works were of an urgent nature. The Tribunal accepts the Applicant’s submission that the works were of an urgent nature. Additionally, it is noted that there have been no objections to the application for dispensation from any of the leaseholders. In all the circumstances the Tribunal grants the application for dispensation from statutory consultation in respect of the subject works, considering it reasonable to do so. For clarity the works are the roof repair works carried out to prevent water ingress into the top floor flat.

12. This decision does not affect the Tribunal’s jurisdiction upon any application to make a determination under section 27A of the Act in respect of the reasonable cost of the work.



Name: H C Bowers

Date: 26 October 2016

ANNEX - RIGHTS OF APPEAL

1. If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber) then a written application for permission must be made to the First-tier Tribunal at the Regional office which has been dealing with the case.
2. The application for permission to appeal must arrive at the Regional office within 28 days after the Tribunal sends written reasons for the decision to the person making the application.
3. If the application is not made within the 28 day time limit, such application must include a request for an extension of time and the reason for not complying with the 28 day time limit; the Tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed despite not being within the time limit.
4. The application for permission to appeal must identify the decision of the Tribunal to which it relates (i.e. give the date, the property and the case number), state the grounds of appeal, and state the result the party making the application is seeking