



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

Case Reference : LON/00BJ/LDC/2019/0017

Property : Waterside Point, 2 Anhalt Road
London SW11 4PD

Applicant : Waterside Point (Freehold) Ltd

Representative : D&G Block Management trading as
D&GBM

Respondent : Various Leaseholders of Waterside
Point

Type of Application : To dispense with the requirement
to consult lessees about major
works

Tribunal : Judge Daley
Mr H Geddes

Date of Decision : 25 March 2019

DECISION

The Tribunal has determined that the Applicant shall be granted dispensation from the statutory consultation requirements in relation to works to the installation of Gas pipe work under the perimeter wall.

Reasons

1. The Applicant made a section 20ZA application, on 4 December 2018 to dispense with the consultation requirements. The subject properties are a development consisting of 70 flats and 7 town houses known as the Waterside Development.

2. The landlord undertook work which involved the fitting of a new boiler; due to the cost of this work, the landlord advised that they consulted with the leaseholders under section 20 of the Landlord and Tenant Act 1985. However whilst the work was being undertaken it was discovered that the gas shut off valve could not be located. In order to fit the new boiler, it was necessary to install new gas connections.
3. The Tribunal made Directions on 13 February 2019. The Directions required the landlord to send a copy of the application to each of the leaseholders and to display a copy of the application and the Directions in a prominent position in the common parts of the building.
4. The directions provided that those leaseholders who opposed the application “shall by 28 February 2019 complete the attached reply form and send it to the tribunal”, together with a statement in response setting out the reason for their opposition to the application.
5. The Tribunal has not received any notice of opposition or responses to the application.
6. In a letter sent to the managing agent by the project manager for the works, David Holland of Shoregate Consulting Limited set out that the approved pipe installation contractor, Cenna had carried out the additional work without consulting the project manager or the managing agent.
7. The Tribunal was provided with a copy of a lease for the development under which the Applicant is obliged to maintain the property and keep it insured and the lessees are obliged to pay a proportionate share of the costs incurred clause (4).
8. In accordance with the Supreme Court’s decision in *Daejan Investments Ltd v Benson* [2013] 1 WLR 854, the primary issue when considering dispensation is whether any lessee would suffer any financial prejudice as a result of the lack of compliance with the full consultation process.
9. The Tribunal is satisfied that the costs of the work were incurred in circumstances where the landlord was unable to consult with the leaseholders. Given the lack of objections or any proven prejudice to any lessee, the Tribunal is satisfied that it is reasonable to dispense with the statutory consultation requirements.
10. However the Tribunal requires the landlord to provide to the leaseholders within 21 days details of the additional costs of the work
11. The Tribunal’s decision does not deal with the issue of whether any service charge cost is reasonable or payable. This means that this decision does not affect the right of any leaseholder to seek a

determination as to the reasonableness and payability of the service charges in relation to the major works.

Name: M Daley

Date: 25 March 2019