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

Case Reference : LON/00BK/LDC/2013/0084

Property : 99 Westbourne Terrace, London W2 6QT

Applicant : Freehold Manager (Nominees) Limited

Representative : Granville & Company, managing agents

Respondent : The leaseholders as per the schedule attached to the application and this decision

Representative : None

Type of Application : For dispensation of the consultation requirements under section 20ZA

Tribunal Members : Judge O'Sullivan
Ms S Coughlin MCIEH

Date and venue of Hearing : 10 Alfred Place, London WC1E 7LR

Date of Decision : 24 September 2013

DECISION

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 any or all of the consultation requirements. The property concerned is 99 Westbourne Terrace, London W2 6QT and the application is made against the various leaseholders in the schedule attached to the application form (the “Respondents”).
2. The issue in this case is whether the consultation requirements of section 20 of the 1985 Act should be dispensed with given that the Applicant says that it has become clear there is an issue with two roof terraces and a balcony which is causing leakage to the building.

The background

3. The property which is the subject of this application is described as a purpose built six storey residential block built in the 19th century with nine apartments.
4. The application is dated 16 August 2013. Directions were made dated 22 August 2013, which provided for the Applicant to serve a statement of case on the Respondents and for them to then indicate whether they consented to the application and wished to have a hearing.
5. No leaseholder has objected to the application.
6. The matter was considered by way of a paper determination, that is, without a hearing.
7. The Tribunal did not consider that an inspection was necessary, nor would it have been proportionate to the issues in dispute.

The issues

8. 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

9. The Applicant had filed a bundle in accordance with the directions. The tribunal is informed that the works are required to remedy a problem which is currently causing damage to the lessee of Flat 4’s property during wet weather and the lessee in question has urged a speedier start to the works than that allowed by consultation.

10. The tribunal is informed however that a Stage 1 notice was served under section 20 of the Act dated 20 June 2013. The Stage 2 notice was served on 29 July 2013 which expired on 3 September 2013. The Stage 2 notices were confirmed to have been accompanied by a copy of the tender analysis. The works stated to be required are as follows;

“the replacement of the balcony of Flat 5 and repairs/ replacements of the roof terraces at the rear of the property outside Flat 4 and the upper roof terrace”

11. The lowest priced contractor was Bell Build Plc in the sum of £26,741 plus fees.
12. The managing agents also wrote to the leaseholders to obtain their consent to the works commencing on site before the consultation period had ended. Positive replies were received from 7 of the leaseholders with 2 not responding.

The Respondents’ position

13. The directions provided for any Respondent who wished to oppose the application for dispensation to serve a statement of case. None of the leaseholders served any statements of case and thus the tribunal concluded that the application was unopposed.

The Tribunal’s decision

14. It appears to the tribunal that an application under section 20ZA is unnecessary as the consultation period appears to have ended on 3 September 2013 after the expiry of the Stage 2 notice. It appears that the Applicant has instructed the lowest priced contractor to have carried out the works and therefore valid consultation has taken place under section 20 of the Act.
15. However for the avoidance of doubt 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 works outlined above.

Reasons for the Tribunal’s decision

16. 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”*.
17. In making its decision the tribunal had regard to the fact that the works are considered urgently required to deal with the leakage at the

property. A full specification has been obtained setting out the required works.

18. None of the leaseholders have objected to the application and the tribunal did not consider that any leaseholders would be prejudiced by the grant of dispensation.
19. The Tribunal would stress that it is not making any assessment of the reasonableness of the charges and a challenge to those charges may be raised pursuant to section 27A of the 1985 Act in the future.
20. The tribunal hereby orders that the Applicant shall serve a copy of this decision on each leaseholder.

Name: S O'Sullivan

Date: 24 September 2013