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

Case reference : **LON/00AC/LDC/2014/0121**

Property : **Portman Heights, West Heath
Road, London NW3 7TW**

Applicant : **OM Limited**

Representative : **Peverel Property Management**

Respondent : **The Leaseholders of Portman
Heights**

Representative : **None**

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

Tribunal Judge : **Mr L Rahman (Barrister)**

**Date and venue of
hearing** : **28th October 2014 at 10 Alfred
Place, London WC1E 7LR**

Date of decision : **28th October 2014**

DECISION

Decisions of the Tribunal

- (1) The Tribunal determines it is reasonable to dispense with the relevant consultation requirements concerning both sets of works.
- (2) The Tribunal makes the determinations as set out under the various headings in this Decision.

The application

1. An application has been made under s.20ZA of the Landlord and Tenant Act 1985 ("the 1985 Act") for a determination that all or any of the consultation requirements in relation to works that have been undertaken by the Applicant may be dispensed with if the Tribunal was satisfied it was reasonable to dispense with such requirements.
2. The Applicant confirmed it was happy for the application to be dealt with on paper if the Tribunal thought it appropriate. There was a Pre Trial Review on 18th September 2014. The Tribunal considered that if none of the Respondents requested an oral hearing then it would be appropriate for the application to be dealt with in this manner (without a hearing). None of the parties requested an oral hearing so the matter was listed to be dealt with on paper.

The background

3. The property which is the subject of this application is a purpose built block of flats containing 19 flats arranged over 6 floors.
4. The works ("the Works") for which the Applicant seeks dispensation of the consultation requirements are as follows:
 - (i) Adapt existing scaffolding to provide working platform.
 - (ii) Installing a new waterproof layer to the surface of the balcony of flat 20.
 - (iii) Install new insulation and promenade tiles to entire terrace.
 - (iv) Undertake water test upon completion.
 - (v) Fitting a new "closer piece" to the pitched roof above flat 16.
 - (vi) Fitting additional roof felt.
 - (vii) Re-pointing the brick work.

5. The Respondents would each be responsible for the proportion required under the terms of their leases.

The Applicant's case

6. The Applicant states that as a result of water leaks from the balcony of flat 20 in March 2014, there was considerable water ingress to flat 16, immediately below. Two quotes were obtained for the works believed to be necessary at the time, namely, to renew the water outlet to the balcony, as this was believed to be the source of the leak. The cost of the works exceeded the sum of £250 per lessee but no application was made for dispensation at the time, as it was felt the works were urgent and the full consultation process would take almost three months. In a letter dated 13th March 2014 the lessees were informed of the proposed works, the urgent nature of the works, and information was provided about the two quotes that were obtained for the proposed works. The Applicant did not receive any objections from any of the leaseholders. Works were carried out between May and June 2014 (the first set of works).
7. Further works (the second set of works) were necessary as it was apparent by early June 2014 that the first set of works were unsuccessful. A surveyor inspected the balcony on 10th July 2014 and advised further works were needed (report dated 14th July 2014). Two quotes were obtained and Libra Support Management were instructed to carry out the required works. The second set of works exceeded £8,800 (excluding vat). In a letter dated 21st August 2014 the lessees were informed of the proposed works, the urgent nature of the works, and information was provided about the two quotes that were obtained for the proposed works. The second set of works started on 1st September 2014 and was due for completion by 12th September 2014.
8. The Applicant now seeks dispensation from the provisions of the regulations, concerning both sets of works, on the grounds that the works were urgent for the welfare of the resident of flat 16.

The Respondent's case

9. Four of the Respondents sent letters supporting the application and the Tribunal received no objections from any of the other Respondents.

The Tribunal's decision

10. The Tribunal can only make a determination to dispense with the consultation procedure if it is satisfied that it is reasonable to do so. The purpose of the procedure under s.20 of the 1985 Act is to ensure that the long leaseholders do not suffer any prejudice when they are asked to pay for works that cost in excess of £250 per flat. The legislation recognises that there may be instances of urgency where the lengthy consultation process, designed to give the long leaseholders full information about the

works and to enable them to make comments and propose a contractor to be asked to provide a quote, cannot be followed and that is the reason for the dispensation provisions under s.20ZA of the 1985 Act.

11. This is an unopposed application. The application is supported by four of the Respondents. The Applicant had some informal consultation. The Tribunal found the work was of an urgent nature, affecting the living room ceiling of flat 16. Delaying the works would have caused further damage and increase the overall cost in the long run.
12. For the reasons given, the Tribunal is satisfied it is reasonable to dispense with the relevant consultation requirements contained in s.20 of the 1984 Act.
13. The dispensation of any or all of the requirements of s.20 of the 1985 Act does not indicate that the cost itself is reasonable or that the work / service is of a reasonable standard. The Respondents may, if they wish, make a subsequent application under s.27A of the 1985 Act, challenging either the need or quality of such works, the recoverability of the cost under the lease, or the level of the cost.

Tribunal Judge: L Rahman

Date: 28th October 2014