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

Case Reference : **LON/00BK/LDC/2014/0160**

Property : **Devonshire Row Mews
London W1W 5AU**

Applicant : **Citystable Ltd**

Representative : **Rendall & Rittner Ltd**

Respondents : **Various leaseholders**

Type of Application : **Dispensation from consultation
regulations**

Tribunal : **Judge Nicol**

Date of Decision : **12th January 2015**

DECISION

Decision of the Tribunal

The Tribunal grants the Applicant dispensation from the consultation requirements of the Service Charges (Consultation Requirements) (England) Regulations 2003.

Reasons

1. The Applicant seeks dispensation from the consultation requirements of the Service Charges (Consultation Requirements) (England)

Regulations 2003 under section 20ZA of the Landlord and Tenant Act 1985 (“the 1985 Act”). The Tribunal issued directions on 10th December 2014 providing for the lessees to be notified of the application and given an opportunity to oppose the application. The Applicant provided the notification directed but none of the lessees have indicated any opposition to the application (one lessee indicated support).

2. Section 20 of the 1985 Act and the aforementioned regulations made under it require a landlord carrying out works which will cost a service charge payer more than £250 to go through a specific consultation process before commencing the works. That process contains two consultation periods of 30 days which means that compliance with the regulations will take a minimum period in excess of two months.
3. The Tribunal has the power to dispense with the consultation requirements under section 20ZA of the 1985 Act if satisfied that it is reasonable to do so. According to the Supreme Court in *Daejan Investments Ltd v Benson* [2013] UKSC 14; [2013] 1 WLR 854, the purpose of s.20ZA is to ensure tenants are not required (i) to pay for services which are unnecessary or defective and (ii) to pay more than they should. Therefore, the Tribunal considering this issue should focus on the extent to which the lessees were prejudiced in either respect by a failure to comply with the requirements. If the extent, quality and cost of the works were not affected, it is difficult to see why dispensation should not be granted unless there is some very good reason.
4. The works in question are asbestos removal works in relation to the lagging of the communal heating installation in an underground car park costing over £30,000. The lessees have been notified of the need for the works and two quotes have been obtained from suitable contractors.
5. The Tribunal is satisfied that the work needs to be done and, particularly in the light of the lack of opposition, that there is no identifiable prejudice to any lessee arising from any lack of compliance with the consultation requirements.
6. Having said that, the Tribunal is disappointed at the poor presentation of the application. The statement of case consisted of a few lines without any serious explanation of what has happened. The only lease provided is the lease of the car park to a car park operating company – this application concerns the liability of the residential lessees of the 80 or so properties above the car park and so the only relevant lease would have been an example of theirs. Although the Applicant has achieved the desired outcome on this occasion, that should not be regarded as an indication that anyone would be similarly successful if their presentation were equally poor.

7. For the reasons set out above, the Tribunal is satisfied that it is reasonable to grant dispensation from the statutory consultation requirements.

Name: NK Nicol

Date: 12th January 2015