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

Case reference : LON/00AJ/LDC/2014/0154

Property : 34 The Park, Ealing, London W5 5NP

Applicant : Mr Steve Brumwell

Representative : Kondominium Property
Management

Respondent : Mr Anthony Wynne Flat A
Ms Lucy Wallace Flat B
Natalie Ryan Flat C

Representative :

Type of application : To dispense with the requirement to
consult leaseholders about roof
repair

Tribunal members : Tribunal Judge Richard Percival
Mr Michael Cartwright FRICS
Ms J Dalal

**Date and venue of
hearing** : Paper application

Date of decision : 15 December 2014

DECISION

The application

1. The Applicant seeks a determination pursuant to section 20ZA of the Landlord and Tenant Act 1985 (“the 1985 Act”) that the consultation otherwise required by section 20 of the Act in relation to qualifying works be dispensed with.

Introduction

2. The property is a Victorian house divided into three flats. On 14 November 2014, the applicant applied for dispensation from consultation requirements in relation to the repair of a leaking flat roof.
3. On 20 November, Tribunal Judge Barran gave directions. She directed that the application be assigned to the paper track and that, on receipt of the directions, the applicant was to send to each leaseholder a copy of the application and the directions with a covering letter from the tribunal. The leaseholders were directed to return an enclosed form not later than 1 December, indicating whether they opposed the application. Further directions made provision for proceedings if a leaseholder opposed the application.
4. The matter came before us for paper determination on 15 December.

Determination

5. One leaseholder responded on the form provided. She is Natalie Sinden, leaseholder of Flat C. We are satisfied that she is the same person as the Natalie Ryan identified as leaseholder in the papers. It appears that neither of the other leaseholders returned the form. There is a form filed out in the name of the representative of the managing agent, the status of which is not clear. In any event, it is clear that none of the leaseholders indicated *opposition* to the application.
6. In a letter to the Tribunal dated 8 December, the managing agent sets out further details of the work needed, and included photographs. The letter explains that the Applicant had intended to carry out works including (but not limited to) a repair of the flat roof, and had issued a notice of intended works as required by section 20 of the Act and the Service Charges (Consultation requirements)(England) Regulations 2003 (“the Regulations”).
7. A copy of that notice, dated 12 November 2014, is with the papers. It includes various other works in addition to the roof repair. However, it became apparent that the leak to the roof had become serious, with the result that in heavy downpours, water entered the flat and ran down the walls. To the letter were attached photographs, which indeed show

substantial water ingress. The Applicant has made clear his desire to repair the roof for the benefit of the tenant in Flat C before the Christmas break.

8. Having considered the photographs, and our surveyor member applying his professional expertise, we are in no doubt that the damage and loss of amenity in Flat C as a result of the disrepair of the roof is considerable. It clearly justifies emergency treatment, and that in turn justifies a dispensation from the consultation requirements in section 20 of the Act and the Regulations. None of the leaseholders have indicated any opposition to the granting of dispensation, even if two, it appears, have not actively supported it.
9. However, we must make it clear that:
 - (i) this dispensation applies *only* to the repairs to the roof. The section 20 procedure should continue to be conducted in relation to the other matters specified in the notice of 12 November; and
 - (ii) nothing in this determination should be taken to include any assessment of the reasonableness or otherwise of any service charges payable in respect of the roof repairs.

Name: Tribunal Judge Richard Percival **Date:** 15 December 2014