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

Case Reference : CHI/43UE/LDC/2014/0058

Property : 6-10 Galsworthy House,
5-6 New Parade,
London Road,
Dorking,
Surrey RH4 1RQ

Applicant : 5-6 New Parade Limited

Representative : Timothy Bray of Bray Estates Property
Management Limited

Respondents : Mr J Ahmed, Mr A Edwards, Mr J Myles,
Mr J Nicholson, and Mr J Worsfold

Representative :

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

Tribunal Member : Mr D Banfield FRICS

Date of Directions : 28 January 2015

DECISION

Summary of Decision

The Tribunal grants dispensation from the consultation requirements of S.20 Landlord and Tenant Act 1985.

Background

1. The Applicant seeks dispensation under Section 20ZA of the Landlord and Tenant Act 1985 from all/some of the consultation requirements imposed on the landlord by Section 20 of the 1985 Act in respect of repairs to the property. The works involve replacement of the defective flat roof covering and defective parapet wall structure to the rear of the property which he says is causing water ingress to flat 8 and the common parts.
2. The only issue for the Tribunal is whether or not it is reasonable to dispense with the statutory consultation requirements. **This application does not concern the issue of whether any service charge costs will be reasonable or payable.**
3. The property comprises part of a terrace of commercial properties with upper parts on the corner of London Road and Reigate Road Dorking. On the ground floor is a double unit occupied by a restaurant and above, with access from a side passageway are 5 flats situated on the two upper floors.
4. Directions were made on 29 December 2014 setting out a timetable for the resolution of the matter and requiring the Respondents to complete forms stating whether they supported the application, whether they wished to make representations to the Tribunal and whether a hearing was required.
5. No responses were received and in the absence of any objection the Tribunal has determined the matter on the basis of written representations.

The Law

6. The relevant section of the Act reads as follows:
20ZA Consultation requirements:
(1) Where an application is made to a Leasehold Valuation Tribunal for a determination to dispense with all or any of the consultation requirements in relation to any qualifying works or qualifying long-term agreement, the Tribunal may make the determination if satisfied that it is reasonable to dispense with the requirements.
7. The matter was examined in some detail by the Supreme Court in the case of *Daejan Investments Ltd v Benson*. In summary the Supreme Court noted the following

12. The Tribunal is satisfied that this is an uncontested application in respect of the factual burden of identifying prejudice. However the Tribunal will still apply the relevant legal principles to the evidence before it, mindful that Parliament has intended dispensation to be an exception to consultation.
13. The Tribunal is satisfied that the water ingress to Flat 8 and the common parts require urgent attention which would be delayed by conducting S.20 consultations.
14. Two estimates have been received and although we note that the specification of works is not identical in both we remind ourselves that the only issue to be determined is whether or not it is reasonable to dispense with the statutory consultation requirements.
15. In the light of the evidence received the Tribunal grants dispensation from the consultation requirements of S.20 Landlord and Tenant Act 1985.
16. The Tribunal makes no findings as to whether the sum is in due course payable or indeed reasonable but confines itself solely to the issue of dispensation.

D Banfield FRICS

28 January 2015

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application to the First-tier Tribunal at the Regional office, which has been dealing with the case. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.
2. If the person wishing to appeal does not comply with the 28-day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28-day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.
3. The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking