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

Case reference : **LON/00AG/LDC/2018/0175**

Property : **1 Carlow Street and 32-36 Arlington Road London NW1 7HU**

Applicant : **Metro Freehold Limited**

Representative : **Ringley Law LLP**

Respondent leaseholders : **Various leaseholders as per the application**

Representative : **-**

Type of application : **To dispense with the consultation requirements under S.20 Landlord and Tenant Act 1985**

Tribunal member(s) : **Mrs E Flint FRICS
Mr T Sennett MA FCIEH**

Date and venue of determination : **28 November 2018
10 Alfred Place London WC1E 7LR**

DECISION

Decision of the tribunal

- (1) The Tribunal grants dispensation from all of the consultation requirements under S.20 of the Landlord and Tenant Act 1985 in relation to the installation of a roller shutter on the garage.

The Background

1. The application under section 20ZA of the Landlord and Tenant Act 1985 ("the Act") was made by Rendall and Rittner, on behalf of the applicants on 20 July 2018.
2. The application relate to the installation of a new roller shutter door to the garage area.
3. Directions were issued on 1 November 2018 requiring the applicant to prepare bundles by 23 November to include statements
 - (i) Setting out the full grounds for the application, including all of the documents on which the landlord relies, a copy of the lease and copies of any replies from the tenants.
 - (ii) The Leaseholders were asked to confirm by 19 November 2018 whether or not they would give their consent to the application.
 - (iii) In the event that such agreement was not forthcoming the leaseholders were to state why they opposed the application; and provide copies of all documents to be relied upon.
4. No responses were received from any leaseholders. However the landlord states that 9 of the 11 leaseholders have agreed to the works proceeding.
5. The lessees were informed in the Directions issued by the Tribunal that the question of reasonableness of the works or cost was not included in this application, the sole purpose of which is to seek dispensation.

The Evidence

6. The premises comprise a three storey mixed use an office and eleven purpose built flats.
7. The landlord states that there was a presumed arson attack in the bin area on or around 7 September 2018. The fire caused extensive damage

to the area itself, electrical systems and access control. As a result the existing garage door was damaged and required emergency measures to be secured.

8. On 11 September a resident informed the Applicant's Board of Directors that two intruders had gained access to the garage via a gap in the door and were using drugs in that area. The landlord also states that the issue of other anti social behaviour is an issue which predates the fire but that the problem has worsened with easy access to the garage.
9. In addition five parking spaces have been out of use, causing inconvenience and cost to the residents.
10. The Applicant, which is the Freehold Management Company of the property and whose shareholders are the Respondents themselves, instructed the Managing Agent to arrange for the installation of a new protective roller shutter to the car park area. The works were completed on 20 November at a cost of £6,400.
11. The Applicant is the Right to Manage Company of the Property whose shareholders and directors are the Respondents themselves. The Company have no other income and state that it is not appropriate to grant dispensation on terms.
12. The applicant confirmed that a copy of the Application had been sent to each lessee and that a copy had been displayed in the common parts.

The reasons for the tribunal's decision

13. Nine of the eleven residents have agreed that the work should proceed. There has been no response from the remaining residents.
14. The relevant test to be applied in an application for dispensation was set out by the Supreme Court in *Daejan Investments Ltd v Benson & Ors* [2013] UKSC 14 where it was held that the purpose of the section 20 consultation procedure was to protect tenants from paying for inappropriate works or paying an inappropriate amount. Dispensation should not result in prejudice to the tenant.
15. The Tribunal determines from the evidence before it that the works were necessary, were required to be completed as soon as possible and that no prejudice to the lessees has been demonstrated or asserted.

16. On the evidence before it, and in these circumstances, the Tribunal considers that the application for dispensation be granted.

Name: Evelyn Flint

Date: 28 November 2018

ANNEX - RIGHTS OF APPEAL

- i. If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber) then a written application for permission must be made to the First-tier Tribunal at the Regional office which has been dealing with the case.
- ii. The application for permission to appeal must arrive at the Regional office within 28 days after the Tribunal sends written reasons for the decision to the person making the application.
- iii. If the application is not made within the 28 day time limit, such application must include a request for an extension of time and the reason for not complying with the 28 day time limit; the Tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed despite not being within the time limit.
- iv. The application for permission to appeal must identify the decision of the Tribunal to which it relates (i.e. give the date, the property and the case number), state the grounds of appeal, and state the result the party making the application is seeking.