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

Case Reference : **LON/00BK/LDC/2013/0117**

Property : **43a St John's Wood High Street,
London NW8 7NJ**

Applicant : **NW8 HOLDINGS LIMITED**

Representative : **METRUS PROPERTY ADVISERS
(Ms Gail Wright)**

Respondent : **The leasehold owners as identified
in the Schedule attached to the
application**

Representative :

Date of Application : **31st October 2013**

Date of Directions : **1st November 2013**

Tribunal Members : **Tribunal Judge S Shaw
Mrs J Davies FRICS**

Date of Hearing : **27th November 2013**

Date of Decision : **27th November 2013**

Introduction

- (1) This case involves an Application dated 31st October 2013, and made pursuant to the provisions of section 20ZA of the Landlord and Tenant Act 1985 (“the Act”). The Application is made by NW8 Holdings Limited (“the Applicant”) in respect of the property situate and known as 43A St. John’s Wood High Street, London NW8 7NJ (“the Property”). The property comprises commercial accommodation on the ground floor, and 3 residential flats above. The Respondents are as identified in the schedule to the Application and are the leasehold owners of the flats, situate on the 1st-3rd floors of the Property. The Application is for an Order from the Tribunal made pursuant to the above statutory provisions, for a determination dispensing with all or any of the consultation requirements in relation to any qualifying works proposed in relation to the property. The Application is unopposed by the owners of the leasehold flats (indeed enthusiastically supported by 2 of the 3 flat owners).

- (2) Directions were given swiftly after the issuing of the Application by the Tribunal on 1st November 2013. Part of those Directions required the Applicant to prepare a bundle of documents, and send three copies to the Tribunal, and one to any leaseholder who has indicated opposition to the Application by the 14th November 2013. The Respondents were also invited to indicate whether they wished a hearing (as opposed to a paper determination) to take place. No such request for a hearing was received, but Ms Wright of the Applicant’s Managing Agents did in fact attend the Tribunal on 27th November 2013, and expanded on the application for the benefit of the Tribunal. No Respondents attended.

- (3) The background to the matter is helpfully set out by Ms Wright in her Statement supporting the Application at page 15 of the hearing bundle. In short. In September 2013, water penetration was discovered in the second floor flat (the middle flat). Investigations immediately took place in both this flat, and the flat above, and the flat roof above. It took some

while to identify the cause, and it transpired that the leakage is indeed coming from the roof and tracking down the interior of a kitchen and bathroom wall, as described in Ms Wright's statement.

- (4) Two quotations for the remedial work have been obtained and it was intended (until the morning of the hearing) to proceed with the lower of those quotes in the sum of £550 for scaffolding and £650 for re-felting the roof (+VAT), or the relevant part of the roof. In fact, the original proposed contractor (Michael Stone Roofing) is now unable to do the work, but an alternative quotation to carry out similar work, in the same sum, has been obtained by Ms Wright, from Capricorn Building Company, described by Ms Wright to the Tribunal as highly reputable and whose services she has used before and with satisfaction.
- (5) The Tribunal was shown photographs of the areas concerned both externally and the effected areas internally. It is apparent that there is undoubtedly significant water penetration as described, and that if this matter is left for the full consultation procedure to be complied with, the position will worsen significantly (during the severest part of the winter) together with consequential damage and inconvenience to the leaseholders – and very possibly increased future costs. Of course there is the Christmas and New Year period which falls during this period of time.
- (6) It is not seriously disputed that this water penetration is indeed taking place. On the evidence before the Tribunal, the Tribunal is satisfied that this is a case in respect of which it is reasonable to grant dispensation from the obligation which would otherwise exist to serve notices under section 20 of the Act. The reason for the Tribunal coming to this conclusion is that there is subsisting water penetration of a serious kind into at least two of the flats concerned, we are about to enter the most severe period of the winter when the weather can hardly be expected to improve, and in the interim there will be substantial damage and discomfort to the leaseholders concerned if these works do not take

place. There is no other expert or alternative evidence put before the Tribunal to suggest that it would be inappropriate to grant dispensation, and indeed the position taken by and on behalf of the Respondents is either support for the work, or neutral silence (the Tribunal was informed that the 1st floor flat is owned by an overseas investor, who has been e-mailed concerning the application, but has not responded – and that the resident tenants have now informed the Applicant’s agents that they are beginning to see signs of damp staining or rain penetration in their flat too).

Decision

- (7) For the reasons indicated above, the Tribunal is satisfied that this work is sufficiently urgent to justify dispensation being granted pursuant to the Act and to enable these works to continue. It should be stressed and understood that the Tribunal is making no finding in the context of this dispensation order as to the reasonableness of these works either generally or specifically in relation to their cost. It is an order given exclusively in respect of the consultation requirements, and it is entirely open to the Respondents or any of them to revert to the Tribunal for a further determination, if so required, as to reasonableness and payability pursuant to the provisions of section 27A.

Conclusion

- (8) For the reasons indicated above, the Tribunal grants the Application made in this case, and dispenses with the consultation requirements of section 20 of the Landlord and Tenant Act 1985 insofar as they relate to the works referred to in this Application, and identified in the Estimate of Capricorn Building Company dated 18th November 2013. As already indicated above, such dispensation does not in any way preclude any further application under section 27A on the part of the Respondents or any of them if so advised.

TRIBUNAL JUDGE S SHAW

Dated: 27th November 2013