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

Case Reference : **BIR/31UC/LDC/2015/0002**

Property : **14 & 16 Bridge Green,
Birstall,
Leicester,
Leicestershire, LE4 3LB**

Applicant : **Mr J Matthey**

**Applicants
Representative** : **Warwick Lite
Unit 9 Astra Centre,
Harlow,
Essex, CM20 2BN**

Respondents : **Leaseholders of Flats 14 & 16,
Bridge Green, Birstall,
Leicestershire, LE4 3LB**

Type of Application : **Application for the dispensation of all
or any of the Consultation
Requirements provided for by Section
20ZA of the Landlord & Tenant Act
1985**

Tribunal Members : **Mr G S Freckelton FRICS (Chairman)
Judge S McClure**

**Date and venue of
Hearing** : **8th July 2015
a Hearing was not requested.**

Date of Decision : **15th July 2015**

DECISION

Background

1. By Application dated 25th March 2015, the Applicant, through its Managing Agents, Warwick Lite, applied to the Tribunal for Dispensation from the Consultation Requirements imposed by Section 20 of the Landlord & Tenant Act 1985 ('the Act') and the Service Charges (Consultation Requirements) (England) Regulations 2003 in respect of the flats known as 14 and 16 Bridge Green, Birstall, Leicestershire, LE4 3LB.
2. The Application was received by the Tribunal on 10th April 2015 following which the Tribunal issued Directions on 27th April 2015. Submissions were subsequently received from the Applicant.

The Facts

3. The property at 14 and 16 Bridge Green, Birstall comprises of a single detached block with two self-contained flats built approximately 11 years ago.
4. The Tribunal carried out an inspection on 8th July 2014 in the presence of Mrs V Hornsey of Flat 16 (the first floor flat). There were no representatives from the Applicant or the owners of Flat 14 (the ground floor flat). The flats comprise one 2 storey block having facing brickwork to all elevations surmounted by a pitched tiled roof. Both flats have 2 car parking spaces and the ground floor flat, number 14, has an open plan garden to the front and a private rear yard area.
5. According to the Application, work was required to the roof of the block to replace approximately four ridge tiles which had fallen off during high winds on 12th January 2015.
6. The Application states the work was urgent to prevent further water ingress into the roof space directly above flat 16.

7. The Application confirms that the Applicant seeks dispensation from all of the consultation requirements as he considers the work to be urgent. The work had already been carried out by the date of the inspection to prevent further damage occurring.
8. The Applicant confirms that he has carried out some consultation with the leaseholders. Briefly, the timeline and consultation carried out is as follows: -
 - a) Following the damage the Applicant requested a quotation for the repair work from Mono Roofing Ltd on 16th January 2015.
 - b) On 21st January 2015 Mono Roofing Ltd provided a quotation for the works in the sum of £540.00 plus VAT.
 - c) On 6th February 2015 the Applicant, through its Managing Agent, wrote to the leaseholders notifying them that works were required and sending to the leaseholders the Notice of Intention, in accordance with Section 20 of the Act.
 - d) On 5th March 2015, Mr G Hornsey of Flat 16 contacted the Applicant's Agents to express concern with ongoing water ingress into his flat.
 - e) As the works were considered urgent the Applicant agreed to fund the works to prevent further damage and Mono Roofing Ltd were instructed. The work was completed on 8th April 2015.
9. Following the Application to the Tribunal, Mr G Hornsey of Flat 16 confirmed by email to the Tribunal that he had no objection to the Application.

10. The Tribunal infers from the submissions that if the full consultation process was to be undertaken, the delay could result in damage to both the structure of the building and internally to flat 16. This would result in more extensive works being required with inevitably additional costs to the lessees.
 11. The Tribunal notes that the leaseholders have had an opportunity to comment on the proposed works and costs but no observations were received in respect of the proposed works from the owner of Flat 14.
 12. The Tribunal understands that the cost of the work is £540.00 plus VAT, making a total of £648.00.
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The Law

13. Where a landlord proposes to carry out qualifying works, which will result in a charge being levied upon a leaseholder of more than £250, the landlord is required to comply with the provisions of Section 20 of the Landlord & Tenant Act 1985 and the Service Charges (Consultation Requirements) (England) Regulations 2003.
14. Failure to comply with the Regulations will result in the landlord being restricted to recovery of £250 from each of the leaseholders unless he obtains a dispensation from a Leasehold Valuation Tribunal under Section 20ZA of the Act, (now the (First-tier Tribunal) (Property Chamber)).
15. In deciding whether or not to grant dispensation, the Tribunal is entitled to take into account all the circumstances in deciding whether or not it would be reasonable to grant dispensation. An Application to grant dispensation may be made before or after the commencement of the works.

The Tribunal's Decision

16. It is evident to the Tribunal that:-

- i) The work was urgent, and
- ii) If the work had been delayed further damage (which would be more expensive to repair) could have occurred.

17. The Tribunal is satisfied on the information provided that it is reasonable to dispense with the consultation requirements in this case. The Tribunal is satisfied that leaseholders will not suffer (or have not suffered) any prejudice by the failure to consult. Indeed they would, in the Tribunal's view, be significantly prejudiced if the work had been delayed.

18. The Tribunal is also influenced by the fact that one of the two Respondents supported the Application for dispensation being submitted and that the second Respondent made no submission to the Tribunal either opposing or commenting on the Application.

19. Accordingly, the Tribunal grants the dispensation requested under Section 20ZA and determines accordingly.

20. This Determination does not give or imply any judgement about the reasonableness of the works to be undertaken or the cost of such works.

APPEAL

21. If either party is dissatisfied with this decision, they may apply for permission to appeal to The Upper Tribunal (Lands Chamber). Any such application must be made within 28 days of this Decision (Rule 52(2)) of the Tribunal Procedure (First-tier) (Property Chamber) Rule 2013.

G S Freckelton FRICS.

Chairman.

First-tier Tribunal Property Chamber (Residential Property)