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

Case Reference : LON/00AW/LDC/2015/0021

Property : 23-25 Kensington High Street,
London W8 5NP

Applicant : Redwood Property & Trading Co Ltd

Representative : Hamilton King Management Ltd

Respondents : Shahnaz Ahmed (Flat 1)
Daniel Borrego-Cubero (Flat 2)
Hoi Yuen Kan & Keong Ngo Ling (Flat 3)
Syed YZ Ahsan (Flat 4)

Type of Application : Dispensation from consultation
regulations

Tribunal : Judge Nicol

Date of Decision : 1st April 2015

DECISION

Decision of the Tribunal

The Tribunal grants the Applicant dispensation from the consultation requirements of the Service Charges (Consultation Requirements) (England) Regulations 2003.

Reasons

1. The Applicant seeks dispensation from the consultation requirements of the Service Charges (Consultation Requirements) (England) Regulations 2003 under section 20ZA of the Landlord and Tenant Act 1985 ("the 1985 Act"). The Tribunal issued directions on 10th February

2015 providing for the lessees to be notified of the application and given an opportunity to oppose the application. One lessee, Mr Kan, indicated his support for the application on the Tribunal's form but the others have not responded.

2. Section 20 of the 1985 Act and the aforementioned regulations made under it require a landlord carrying out works which will cost a service charge payer more than £250 to go through a specific consultation process before commencing the works. That process contains two consultation periods of 30 days which means that compliance with the regulations will take a minimum period in excess of two months.
3. The Tribunal has the power to dispense with the consultation requirements under section 20ZA of the 1985 Act if satisfied that it is reasonable to do so. According to the Supreme Court in *Daejan Investments Ltd v Benson* [2013] UKSC 14; [2013] 1 WLR 854, the purpose of s.20ZA is to ensure tenants are not required (i) to pay for services which are unnecessary or defective and (ii) to pay more than they should. Therefore, the Tribunal considering this issue should focus on the extent to which the lessees were prejudiced in either respect by a failure to comply with the requirements. If the extent, quality and cost of the works were not affected, it is difficult to see why dispensation should not be granted unless there is some very good reason.
4. At around the end of November 2014 water ingress was reported into the subject property. The Applicant's surveyor inspected on 17th December 2014 when access could be provided to all the flats. Interior matters were dealt with but external works were needed, requiring the erection of scaffolding. The works were urgent as the surveyor advised that the ceiling in one of the bedrooms in one of the flats could collapse.
5. The Applicant did start the statutory consultation process by letter dated 16th January 2015 but, by further letter dated 29th January 2015, warned the lessees that dispensation would be sought from the Tribunal.
6. The Applicant has obtained two quotes, one from 1st Choice Contractors Ltd (who had attended the property with the surveyor) for £6,445 plus VAT and one from PMC (London) Ltd for £10,700 plus VAT. A contractor proposed by a lessee did not respond. It is understood that the Applicant intends to use 1st Choice.
7. As referred to above, the focus is on any financial prejudice to the lessees. In this case, the Respondents appear not to object to the proposed work or its cost. The urgency of the works seems to have been well-established. The Applicant has consulted as far as possible in the time allowed.

8. For these reasons, the Tribunal is satisfied that it is reasonable to grant dispensation from the statutory consultation requirements.

Name: NK Nicol

Date: 1st April 2015