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

Case reference : **LON/00AL/LDC/2013/0053**

Property : **71 Shooters Hill Road SE3 7HU**

Applicant : **71 SHR RTM Company Ltd**

Representative : **Mr Daniel Radford,
Mr Iain Harrison
Dr Claire Kershaw
Mr Iain Harrison (flat D)
Mr Daniel and Mrs Maria Radford
(flat C)**

Respondent : **Mr Jon and Mrs Fiona Alexander
(flat B)
Mr Steven Action (flat A)**

Representative : **No appearance by Mr Acton**

Type of application : **To dispense with the requirement
to consult lessees about major
works/ a long-term agreement**

Tribunal members : **Mr S Carrott LLB
Mr T Sennett MA FCIEH**

**Date and venue of
hearing** : **17 July 2013 at 10 Alfred Place,
London WC1E 7LR**

Date of Decision : **3 September 2013**

DECISION

Decision

- (1) The Tribunal determines that it is reasonable to grant the dispensation from consultation under section 20ZA of the Landlord and Tenant Act 1985, in order to allow the Applicant to carry out works of external decoration and associated repairs and roof repairs, including the erection of scaffolding.
- (2) This decision does not prejudice the rights of the leaseholders to challenge the costs of the above works pursuant to section 27A of the Landlord and Tenant Act 1985.

Background

1. This is an application for a 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.
2. The Applicant is **71 SHR RTM Company Ltd** and the Respondents lessees are Mr Iain Harrison (flat D) Mr Daniel and Mrs Maria Radford (flat C), Mr Jon and Mrs Fiona Alexander (flat B) and Mr Steven Action (flat A). All of the leaseholders save for Mr Acton are directors of the Applicant company.
3. The premises 71 Shooters Hill is a building comprising four flats. The leaseholders are directors of the Applicant Right to Manage Company.
4. Works of decoration and repair including critical roof repairs were proposed to the exterior of the building. There have discussions amongst the leaseholders as to the scope of works and the contractors to be approached. There is agreement between three of the flats but the leaseholder of flat A, Mr Acton, who will be responsible for paying 25% of the costs does not wish the works to proceed at this stage. No notice has been served pursuant to section 20 of the Act but other leaseholders wish to proceed with the works as soon as possible to take advantage of costs savings which can be achieved by using the contractor who is undertaking works to the neighbouring property.
5. Following a directions hearing, the Applicant's had also issued an application pursuant to section 27A of the Landlord and Tenant Act 1985. This application was correctly withdrawn on the day of the hearing.
6. The only issue for the tribunal is whether or not it is reasonable to dispense with the statutory consultation requirements.

The Hearing

7. We heard oral evidence from Mr Dan Radford, Mr Iain Harrison and his partner Dr Claire Kershaw.
8. They explained the difficulties that they had with the previous management of the building and the prospective cost of the works which led to them acquiring the right to manage.

9. They further explained that discussions between the leaseholders had been on going since 2012 concerning the works but that Mr Acton had consistently vetoed the carrying out of works.
10. Mr Harrison has had £2000 held in escrow as part of the purchase of his flat which is to be used solely for the renovation of the building. However this will be lost if it is not used by October 2013. Mr Harrison has agreed that this £2000 will be applied for the benefit of all the leaseholders for the work thus saving each leaseholder, including Mr Acton, £500.00.
11. The Applicant's case is that at present the contractors and scaffolders whom the Applicant wishes to engage are carrying out similar works to 69 Shooters Hill. The cost of works will be significantly cheaper if, the Applicants can start the work now. In addition since Mr Acton is unable to make payment at this stage, they would make payment on his behalf and recover the sums from him at a future date. He would still however have the benefit of the cheaper costs occasioned by the agreement with the contractor plus the savings of £500.
12. We were also referred to a surveyors report prepared by Benjamin Mire on 6 March 2011 where the works were costed at some £23,980.00, almost three times the cost of the works now proposed by the Applicant, if the Applicant is able to take advantage of the costs savings by obtaining the dispensation.
13. Although no formal Statement in Reply has been served by Mr Acton, he does not agree with the works principally on the ground of costs and owing to financial constraints. He wishes the works to proceed at a time more convenient to himself.
14. The Applicant accepts that while the works have been outstanding for a number of years, there is no urgency in undertaking the works themselves, rather the urgency, if any, is the fact that if the Applicant is to take advantage of the savings then an indication will have to be given to the contractors at this stage so that the works can be carried out in tandem with the works to the neighbouring property.

The Tribunal's Reasons

15. As we indicated at the hearing, this was a suitable case for a dispensation.
16. With regard to the cost of the works under the scheme proposed by the Applicant's, there were considerable savings for all leaseholders.
17. The total costs of the works including external decorations to include window and stone repairs, scaffolding chimney repairs and roof repairs was costed at £9500, Flat D had £2000 held in escrow which would be applied to the cost of the works for the benefit of all of the leaseholders. Thus the cost of works would be reduced further to £7560.
18. There was some £5500 held in the reserve fund some £1400 which would be applied for the insurance and the remainder being applied to the works.

19. The Applicant's would also in the short term subsidise Mr Acton's contribution for the works which he would be required to pay at a later date.
20. This represented a considerable saving to the all of the parties but only if the works were to proceed in tandem with the works to 69 Shooters Hill. If the works were carried out on their own.
21. Although Mr Acton was concerned about hidden or escalating costs, whatever the eventual costs may be, he and the other lessees were still benefitting from the £2000 which would be applied to the works. The £2000 would be lost if the Applicant was required to go through the consultation process and in addition the repair works would be significantly higher.
22. Having regard to the recent decision of **Daejan Investments Ltd v Benson and Others [2013] UKSC 14**, we were satisfied that these were all relevant factors to be taken into account in exercising the our discretion under section 20ZA of the Act.
23. Indeed, given the financial constraints which Mr Acton presently finds himself under, we consider that this was too his particular advantage.
24. Accordingly the dispensation would be granted.
25. This determination is without prejudice to Mr Acton's to challenge the eventual costs of the works.

Name: S Carrott LLB

Date: 3 September 2013