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

Case Reference : LON/00AG/LDC/2014/0136

Property : The Tower, 55 Fitzjohns Avenue, London
NW3 6PH

Applicant : The Towers Residents Company Limited

Representative : Mark Reed, Aldermartin Baines &
Cuthbert

Respondent : Lessees of Flats 1-10, The Tower (as
above)

Type of Application : Dispensation with Consultation
Requirements

Tribunal Members : Sara Hargreaves
Robert Latham

**Date and venue of
Hearing** : 17th November 2014
at 10 Alfred Place, London WC1E 7LR

Date of Decision : 17th November 2014

DECISION

The Tribunal determines to allow this application to dispense with the consultation requirements imposed by section 20 of the Landlord and Tenant Act 1985.

The Application

1. By an application dated 15th October 2014, the Applicant seeks dispensation with the consultation requirements imposed by section 20 of the Landlord and Tenant Act 1985 (“the Act”). The application involves 10 leaseholders at The Tower, 55 Fitzjohns Avenue. The Applicant contends that urgent repairs are required because water is leaking into the property as particularised in paragraph 10 of the application, as further particularised under the heading “Grounds for seeking dispensation”. In essence urgent remedial works to the roof are required because of water ingress, particularly to Flat 8. The Applicant sought a fast track disposal on the grounds of urgency.
2. The only issue for this Tribunal is whether or not it is reasonable to dispense with the statutory consultation requirements. This application does not concern the issue of whether any service charge costs will be reasonable or payable.
3. On 22 October 2014, this Tribunal gave directions.
4. The Applicant was required to send to each Respondent immediately (on receipt of the Tribunal directions) copies of the application and the Tribunal directions. Provision was made in the directions for the Respondents to indicate their position no later than 5th November 2014 and prepare representations by noon on 12th November 2014. The Applicant has complied with the tribunal directions.
5. The documents filed by the Applicant show as follows.
6. The Respondents are said to have been advised of the nature of the works required, a survey report having been obtained on 5th September 2014 (document 2) which identifies the nature of the problems. The Applicant states that the Respondents, being part owners of the freehold company, are (in a majority) in favour of the works. Preliminary notice of the Applicant’s intention to carry out works requiring a s20 notice was given to the Respondents on 2nd October 2014 (document 3). Documents 4 and 5 are copies of estimates provided by Sinclair Builders and Kaloci Ltd. The Applicant’s preferred contractor is Kaloci Ltd which has quoted £3,280 plus VAT, as explained in the covering letter to the Tribunal. The Applicant has prepared a statement setting out its position in full in accordance with the tribunal directions, dated 11th November 2014.
7. The problem of water ingress was notified to the Applicant from about the middle of August 2014, and in particular there has been pressure from the lessee of Flat 8 to instigate remedial action. The Applicant’s statement reports no “negative comments” from the Respondents.

8. Section 20ZA(1) of the Act provides:

“Where an application is made to the appropriate tribunal for a determination to dispense with all or any of the consultation requirements in relation to any qualifying works or qualifying long term agreement, the tribunal may make the determination if satisfied that it is reasonable to dispense with the requirements.”

9. Having regard to the papers before us, the Tribunal are satisfied that it is reasonable to grant dispensation from the consultation requirements. This is justified by the urgent need for the works. The Applicant has taken reasonable steps to bring both the works that are proposed and the likely costs of the same to the attention of the leaseholders. No leaseholder has questioned the need for the works or suggested another builder to that proposed by the Applicant after obtaining quotes (and being unable to obtain a quote from the builder suggested by the Respondents). To insist that the Applicant follow the strict requirements of the statutory consultation procedure will only cause unnecessary delay particularly since the Respondents have not opposed the application.

Sara Hargreaves

Tribunal Judge

17 November 2014