



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

Case Reference : LON/00AN/LDC/2014/0060

Property : 1-8 Lyndhurst Mansions, Vera Road, London SW6 6QL

Applicant : Gracewell Properties Ltd

Representative : Alliance Managing Agents

Respondents : Mr NS & Mrs LJ Marshall (Flat 1)
Insha Pauwels (Flat 2)
Mr A Christie (Flat 3)
Mr & Mrs Webb (Flat 4)
Julie Barrett (Flat 5)
Helen M Dutton (Flat 6)
Ms D Bains (Flat 7)
Miss S Lloyd (Flat 8)

Type of Application : Dispensation from consultation regulations

Tribunal : Judge Nicol

Date of Decision : 27th June 2014

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 23rd April 2014 providing for the lessees to be notified of the application, provided with a summary of any relevant quotes and given an opportunity to oppose the application. The Applicant provided the notification directed but none of the eight lessees have indicated any opposition to the application.
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. The works in question are safety rails on the roof area to allow safe access to both the roof itself and the water tank located there. According to a quote dated 7th May 2014 from DCPM Contracts Ltd, they will cost £3,650 plus VAT. The work is urgent because the Applicant needs to attend to some broken roof tiles and damage to the lid to the water tank which is capable of allowing contamination of the water supply. As well as the aforementioned Tribunal-directed notification, the Applicant notified the lessees of the need for the works, and the fact that they would be funded out of the Reserve Fund, by letter dated 2nd April 2014.
5. The Tribunal is satisfied that the work needs to be done and, particularly in the light of the lack of opposition, that there is no identifiable prejudice to any lessee arising from any lack of compliance with the consultation requirements.

6. For the reasons set out above, the Tribunal is satisfied that it is reasonable to grant dispensation from the statutory consultation requirements.

Name: NK Nicol

Date: 27th June 2014