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

Case Reference : **LON/00AW/LDC/2018/0165**

Property : **112 Finborough Road & 125 Iffield Road, London SW10 9ED**

Applicant : **Seyid-Ali Fatahi**

Representative : **ABC Real Estate**

Respondent : **Mr P Newberry (Flat 3)
Elisabet Atteryd (Flat 2)
Dimitrios Papadimitriou (Flat 1)**

Representative : **N/A**

Types of Application : **Landlord and Tenant Act 1985
Section 20ZA**

Tribunal Members : **Judge Tagliavini
Mr. K Ridgeway MRICS**

Date and venue of hearing (paper) : **10 Alfred Place, London EC4Y 7LR
5 December 2018**

Date of Decision : **5 December 2018**

DECISION

Summary of decision:

1. **The tribunal finds it is appropriate to grant dispensation under the provisions of section 20ZA of the Landlord and Tenant Act 1985 in order for works to the flat roof, the mansard roof and parapet(s), the guttering, the rendering, the window repairs and re-asphalting to the front entrance to be carried out without further consultation.**
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The application

1. The Applicant landlord makes an application under section 20ZA of the Landlord and Tenant Act 1985 seeking a dispensation from the consultation requirements of section 20 of that Act. The landlord seeks to carry out works to the flat and mansard roof; the parapet and guttering, the rendering, the windows and asphalt to the front entrance.

Background

2. By a decision of the tribunal dated 23 April 2018 in respect of two applications (i) for an appointment of a manager and (ii) an application to dispense with consultation (*Ref CHI/00AW/LAM/2017/013 and CHI/00AW/LDC/2018/0010 respectively*), dispensation was granted pursuant to section 20ZA in respect of works relating only to roof repairs at the subject property.
3. In this application dated 28 September 2018, the Applicant landlord now seeks dispensation for further works to the subject property. It is said by the Applicant that these further works are necessary in order to prevent continuing water ingress and to take advantage of the scaffolding that is to be erected to carry out the previously identified roof works.

The property

4. The subject property comprises a 4-storey Victorian terrace house with basement converted into five flats.

The hearing

5. Initially, Mr. Newberry requested an oral hearing but subsequently withdrew his request. Consequently, the tribunal determined the application on the papers provided.

The landlord's case

6. In a letter dated 17 September 2018 from Mr. Mukul Motiwala of ABC Real Estate, the tribunal was informed that an independent RICS Surveyor had inspected the roof of the subject property and noted that water ingress was not only coming from the flat roof but also through

the window frames and some of the surrounding masonry. A quote for the identified works was received from Kaloci Ltd in the sum of £44,430 (inc. VAT).

7. In this letter of 17/9/18, the tribunal was informed that the other lessees had paid their share of the cost of the works but Mr. Newberry had objected as only dispensation had been granted by the tribunal in respect of roof works only. However, as scaffolding would have to be erected in order to carry out roof works it was more time and cost effective to carry out all necessary works in order to render the subject property watertight. Further, as a result of the objections raised by Mr. Newberry the proposed electrical works were removed from the Schedule of Works and the landlord was now seeking dispensation from consultation only in respect of the remainder,
8. In a letter dated 05/11/2018 from ABC Real Estate the tribunal was informed that notice of this application and the tribunal's directions dated 31 October 2018 had been provided to the Respondent tenants and put up in the communal areas of the property.

The tenants' case

9. Of the three lessee Respondents, (the basement and first floor flat being owned by the landlord), only written representations dated 12/11/18 in respect of this application, were received from Mr. Newberry. In these, Mr. Newberry expressed his wish not to hold up the grant of dispensation but voiced his concern over the lack of roof works being carried out, despite dispensation from consultation having been granted by the tribunal in April 2018, as it was said by the landlord's managing agent's ABC Real Estate that works were ready to proceed. Mr. Newberry also stated. That £14,000 had been paid to his solicitors Prince Evans in respect of the proposed roof works and £11,000 of this sum had been released to ABC Real Estate. However, roof works have not been carried out to date as the landlord preferred to seek to extend the scope of the works said to be required.
10. In his written representations to the tribunal Mr. Newberry expressed his dissatisfaction with the way in which the proposed works were being managed and queried the scope of the works said to be required specifically to the electrical work and to the drains, the lack of information provided and an absence of any detail about a contract administrator or insurance and the need for the service of a Party Wall Act 1996 notice. Although Mr. Newberry asked the tribunal to consider imposing conditions upon any grant of dispensation, he did not set out what conditions he wished the tribunal to impose.

The tribunal's decision and reasons

11. In reaching its decision, the tribunal noted the absence of any surveyor's report or tender documents in support of this application. However, in the absence of objections from the majority of the tenants

and Mr. Newberry's acknowledgment of continuing problem of water ingress, the tribunal were satisfied that this application had been properly notified to the tenants and that the works proposed were of sufficient urgency to require an exercise of the tribunal's discretion to dispense with the otherwise statutorily required consultation procedures. Further, the tribunal were not satisfied that Mr. Newberry had identified any prejudice that would be caused to him as a result of the tribunal granting dispensation as a challenge to the scope, standard and costs of the works remains open to him after the completion of the proposed works.

12. Therefore, the tribunal grants the landlord's application and dispenses with the consultation requirements in respect of the works to be carried out to the flat roof, the mansard roof and parapet(s), the guttering, the rendering, the window repairs and re-asphalting the front entrance.

Signed: Judge Tagliavini

Dated: 5 December 2018