



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

Case Reference : LON/00AJ/LDC/2014/0099

Property : Flats 1-9 Newpark House, 2 Warple Way,
London, W3 0UE

Applicant : Newpark Properties Acton LLP

Representative : GMB Surveyors (managing agents)

Respondent : The Lessees of Flats 1-9 Newpark House

Type of Application : Dispensation with Consultation
Requirements

Tribunal Members : Judge Robert Latham
Richard Shaw FRICS

**Date and venue of
Hearing** : 18 September 2014
at 10 Alfred Place, London WC1E 7LR

Date of Decision : 18 September 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 7 August 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 12 leaseholders at 21 flats at Leaf Grove and Leigham Court Road, London, SE27 0SG ("the block"). The Applicant contends that urgent repairs are required because water is leaking into Flat 8.
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 14 August 2014, this Tribunal gave directions.
4. The Applicant was required to send to each Respondent by 21 August at least two estimates for the proposed works. On 22 August, the Applicant sent the leaseholders three quotations, namely (i) D.G.Locker Roofing Ltd - £4,050 + VAT; (ii) Uxbridge Roofing - £4,962 + VAT; and (iii) McDonald Roofing - £6,255 + VAT. The leaseholders were invited to comment on the quotations.
5. It would seem that the letter was received by the leaseholders on 23 August, namely two days late. On 27 August, the Applicant notified the leaseholders that it would be writing to the Tribunal to extend the timetable. On 1 September, the Tribunal extended the time for the leaseholders to respond to the application from 28 August to 5 September.
6. Nicholas and Susan Jennifer Cvetkovic who are lessees of Flat 1, have written to the Tribunal to oppose the application. They do not live at the property. The Applicant has filed a Bundle of Documents. This includes a response to the points raised by these Respondents.
7. The Respondents raise a number of points. We deal with each of these. First, the Respondents complain of the two-day delay in receipt of the estimates. The managing agents state that the reason for this was that the Directions were mislaid in their office. The Tribunal extended the time for responding. We are satisfied that the Respondents have had an adequate opportunity to submit their response.
8. Secondly, the Respondents suggest that the works are outside the service charge provisions in the lease. We have been provided with a copy of the lease. Repairing and replacing the Retained Parts are part of the services specified in paragraph 1.1.1 of Part 1 of Schedule 7 of the lease. "Retained parts" are defined in Clause 1 and extends to the roof. We are satisfied that this contention is ill-founded.

9. Thirdly, the Respondents complain that the properties are only 18 months old. They suggest that the cost of the works should be covered by insurance or a builder's warranty. The Applicant responds that this was a conversion and not a new development. None of the works are covered under either their insurance policy or the Build Zone Warranty. It is not for this Tribunal to make any determination on these points. This application relates solely to the statutory consultation requirements, and not to whether the service charge costs will be reasonable or payable.
10. Fourthly, the Applicants complain of other recent service charge demands. Again, these are not matters for this Tribunal on the current application.
11. Finally, the Respondents complain that the ground floor commercial lessee has not been included in the application. The Applicant has confirmed that the commercial tenant will be required to contribute to the cost of the works. However, a commercial lessee is outside the Section 20 consultation requirements.
12. The Tribunal have separately received written representations from Jason Morris, the lessee of Flat 9 (a letter dated 26 August, received by the Tribunal on 2 September) and James Noakes and Sophie Mayhew, the lessees of Flat 3 (a letter dated 26 August received on 28 August). It is unclear whether these were copied to the Applicant as required by the Directions. In any event, they do no more than repeat the points made by Mr and Mrs Cvetkovic.
13. 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.”
14. 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 insist that the Applicant follow the strict requirements of the statutory consultation procedure will only cause unnecessary delay. The Respondents have not established that they would be caused any prejudice were we to grant this application.

Robert Latham
Tribunal Judge
19 September 2014