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

Case reference : LON/00AA/LDC/2018/0052

Property : 60-63 West Smithfield, London
EC1A 9DY

Applicant : Honorbond Limited

Respondents : The leaseholders of the Property as
per the application

Type of application : To dispense with the requirement
to consult leaseholders about
major works

Tribunal members : Judge P Korn
Mr L Jarero BSc FRICS

Date of decision : 30th April 2018

DECISION

Decision of the tribunal

- (1) The tribunal dispenses with the consultation requirements in respect of the qualifying works which are the subject of this application to the extent that they have not already been complied with.
- (2) No cost applications have been made.

The application

1. The Applicant seeks dispensation under section 20ZA of the Landlord and Tenant Act 1985 ("**the 1985 Act**") from the consultation requirements imposed on the landlord by section 20 of the 1985 Act in relation to certain qualifying works, to the extent that those requirements have not already been complied with.
2. The Property is a converted block comprising 17 residential flats plus a ground floor commercial unit.
3. The application concerns works to a communal water tank in the basement.

Paper determination

4. In its application the Applicant stated that it would be content with a paper determination if the tribunal considered it appropriate. In its directions the tribunal allocated the case to the paper track (i.e. without an oral hearing) but noted that any party had the right to request an oral hearing. No party has requested an oral hearing and therefore this matter is being dealt with on the papers alone.

Applicant's case

5. The Applicant states that the communal water tank contains a two pump booster set which pumps water to all of the flats. The Applicant has been advised by its maintenance company that one of the two pumps has failed. Due to the age of the pump set, a replacement pump cannot be sourced that would be compatible with the controller, and the Applicant has been advised that its only option is to replace the booster set. The system is currently running on one pump, and this places it under more stress. As the remaining pump is the same age as the one which has already failed it is at a high risk of failure. If the remaining pump were to fail there would be no water supply, thereby rendering the Property uninhabitable until the set was replaced.

Responses from the Respondents

6. None of the Respondents has opposed the application or made any other representations.

The relevant legal provisions

7. Under Section 20(1) of the 1985 Act, in relation to any qualifying works *“the relevant contributions of tenants are limited ... unless the consultation requirements have been either (a) complied with ... or (b) dispensed with ... by ... the appropriate tribunal”*.
8. Under Section 20ZA(1) of the 1985 Act *“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..., the tribunal may make the determination if satisfied that it is reasonable to dispense with the requirements”*.

Tribunal’s decision

9. The tribunal notes that the Applicant’s stated rationale for applying for dispensation is that one pump has failed, that the remaining pump is very old and at high risk of failure, and that if the remaining pump were to fail there would be no water supply to any of the flats. In principle, that is a good reason for treating the works as urgent, although we note that the Applicant’s case is somewhat light on detail. In particular it is unclear from the information provided whether a partial consultation with leaseholders has taken place and if not why not.
10. Nevertheless, the potential absence of a water supply renders the works urgent, and none of the Respondents has opposed the application or made any other representations. There is also no evidence before us that any of the Respondents has been prejudiced by the failure to consult fully (or possibly at all).
11. In our view, therefore, whilst the Applicant should have provided more information in support of its application, the need to have a functioning water supply for the benefit of the residents, coupled with there having been no objections to the application from the Respondents, constitutes sufficient justification for the Applicant’s decision not to complete (or possibly not even to start) the formal consultation process on the facts of the case as we understand them.
12. Therefore, we are satisfied in this case that it is reasonable to dispense with the formal consultation requirements in respect of the qualifying works which are the subject of this application to the extent that they have not already been complied with.

13. For the avoidance of doubt, this determination is confined to the issue of consultation and does not constitute a decision on the reasonableness of the cost of the works. Therefore, it is still open to leaseholders to challenge the reasonableness of the cost itself if they wish to do so.

Name: Judge P Korn

Date: 30th April 2018

RIGHTS OF APPEAL

- A. If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber) a written application for permission must be made to the First-tier Tribunal at the regional office dealing with the case.
- B. The application for permission to appeal must arrive at the regional office within 28 days after the Tribunal sends written reasons for the decision to the person making the application.
- C. If the application is not made within the 28 day time limit, such application must include a request for extension of time and the reason for not complying with the 28 day time limit; the Tribunal will then look at such reason and decide whether to allow the application for permission to appeal to proceed despite not being within the time limit.
- D. The application for permission to appeal must identify the decision of the Tribunal to which it relates (i.e. give the date, the property and the case number), state the grounds of appeal, and state the result the party making the application is seeking.