

10397



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

Case Reference : LON/00AZ/LDC/2014/0135

Property : Highfield, 18 Brockley Park, London
SE23 1PS

Applicant : Elm Property Finance Ltd (Mortgagees in
Possession)

Representative : VFM Property Management Ltd

Respondents : The 8 Leaseholders specified in the
Schedule annexed to the application

Type of Application : Dispensation with Consultation
Requirements

Tribunal Members : Judge Robert Latham

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

Date of Decision : 18 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 15 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 8 leaseholders at Highfield, 18 Brockley Park, London, SE23 1PS. A schedule of the leaseholders is annexed to the application.
2. The property is a purpose built residential block of eight flats. There has been a problem of severe water ingress into the second bedroom at Flat 7 and into the communal hallway. It was initially thought that the water was coming from the Flat 8 which is above Flat 7. On 20 August, a contractor inspected the property and found that the flash boards on the balcony of Flat 8 were incorrectly fitted and were preventing water from escaping from behind the cladding sheets. The flashing needs to be replaced with breathable under flashing. This involves the removal and refixing of the cladding panels and works to flashings and upstand.
3. On 22 September, the landlord obtained a quote for the works from S&K Construction Ltd in the sum of £3,220 + VAT.
4. On 7 October, the landlord served a Notice of intention on the leaseholders. Written observations on the proposed works were requested by 6 November.
5. The landlord wishes to proceed with the works as a matter of urgency to mitigate the damage caused to the fabric of the building and to try and keep resultant costs to a minimum.
6. 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.
7. On 17 October, this Tribunal gave directions.
8. The Applicant was required to supply a copy of both the application and the directions to each leaseholder immediately upon receipt of the Directions. On 20 October, the landlord e-mailed all the leaseholders attaching copies of these documents.
9. Any Respondent who supported or opposed the application was directed to notify the Tribunal by no later than 28 October. No leaseholder has responded.

10. The Applicant has filed a Bundle of Documents with a supporting statement. The Applicant states that it has received no objection from any of the leaseholders to the proposed works.
11. 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.”
12. Having regard to the papers before us, the Tribunal is 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 their proposed action to the attention of the leaseholders. No leaseholder has questioned the need for the works or the urgency of the situation. To insist that the Applicant follow the strict requirements of the statutory consultation procedure will only cause unnecessary delay and put the tenants at risk. No Respondent have suggested that s/he would be caused any prejudice were the Tribunal to grant this application.

Robert Latham

Tribunal Judge

18 November 2014