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

Case Reference : **LON/00BG/LDC/2013/0070**

Property : **CHINNOCKS WHARF, 42
NARROW ST, LONDON E14 8DJ**

Applicant : **CHINNOCKS WHARF
MANAGEMENT COMPANY LTD**

Representative : **RENDALL AND RITTNER,
MANAGING AGENTS**

Respondent : **THE LONG LEASEHOLDERS OF
THE PROPERTY LISTED IN THE
APPLICATION FORM**

Representative : **N/A**

Type of Application : **TO DISPENSE WITH
CONSULTATION REQUIREMENTS
IN RELATION TO MAJOR WORKS**

Tribunal Members : **Ms L Smith (legal chair)
Mr C Gowman, BSc MCIEH MCMI**

**Date and venue of
Hearing** : **14 August 2013
10 Alfred Place, London WC1E 7LR**

Date of Decision : **14 August 2013**

DECISION

Decisions of the Tribunal

In accordance with the provisions of s20ZA of The Landlord and Tenant Act 1985 ("LTA 1985"), the Tribunal dispenses with the formal consultation requirements of s20 LTA 1985.

The application

1. The Applicant seeks a dispensation from the consultation requirements of s20 LTA 1985 in relation to proposed repair works to the lift in block B of the property at Chinnocks Wharf, 42 Narrow St, London E14 8DJ ("the Property"). The Applicant is the Lessor of the Property. The Respondents are the Lessees of the Property.
2. Directions were given on 24 July 2013 providing for an oral hearing on 14 August 2013 and, to the extent necessary, dispensing with a 14 day notice period for that hearing in the event that any of the Respondents did not receive the directions in time for the requisite notice, in light of the urgency.
3. The hearing was attended by Mr David Whittle and Ms Zara Prosser, both of Rendall and Rittner and Mr Adrian George who is the lessee of Flat 38 which is on the sixth floor of Block B of the Property.
4. Having read the bundle submitted for the hearing and having heard submissions from Mr Whittle and Mr George, the Tribunal gave its decision orally, granting the dispensation sought and indicated that it would provide its reasons in writing for that decision as soon as possible thereafter.

The background

5. The Property is described in the application as a purpose built block containing 38 residential units, split in to two cores – Block A, Flats 1-16 and Block B, Flats 17-38.
6. The works in relation to which dispensation is sought are repairs to the lift in Block B of the Property ("the Works"). The lift failed on Monday 15 July 2013 and has not operated since. As indicated in the application, the parts for the lift are now obsolete. Mr Whittle also explained that the same problem (although from a different cause) arose in relation to the lift in Block A in 2011. On that occasion, the managing agents sought to have more minor repairs carried out but this did not prove possible and in the end the lift control system had to be replaced. The Applicant therefore seeks to move to replacing the lift control system immediately at a cost of £19872 inc VAT. The limit for works under section 20 is £7576.
7. Mr Whittle explained that the cost of the Works is the same as the cost of the lift repair to Block A in 2011 and the lift contractor has agreed to carry out the Works for the same price. In 2011, the works to the lift in Block A were the subject of a competitive tender and the contractor who

carried out the work and who will carry out the Works here submitted the most competitive tender.

8. On 18 July 2013, the Applicant sent to the Respondents a notice under s20 notifying its intention to carry out the Works. The relevant period under that notice does not expire until 17 August 2013. Mr Whittle confirmed that no objections or observations have been made by any of the Respondent save from one lessee, Mr Graham Coster, who sent an e mail to Mr Whittle asking why the lift was being repaired when works were already anticipated and budgeted for to replace the lifts. He considered that it was not reasonable to repair the lift if it was intended to replace it. In response, Mr Whittle indicated that the repair was already part of a staged modernisation of the lifts in Block B and Block A. Mr Whittle explained to the Tribunal that it was in fact planned to replace the drive unit (which is the subject of the Works) as part of that staged modernisation next year but the failure of the lift had brought the repair forward.

The issues

9. The Applicant seeks a dispensation from the consultation requirements of s20 in relation to the Works on the basis that the lift has been out of action now for 5 weeks and the Works will take a further 3 weeks to carry out. The parts required to carry out the Works have already been ordered given the urgency and the Works can start very quickly if dispensation is granted.
10. Mr George expressed his support for the dispensation application on the basis that this was currently seriously affecting his own lifestyle, as he had to carry shopping etc up 6 flights of stairs. The flats were also occupied by a number of women with children who had to leave prams and pushchairs downstairs and carry their children upstairs. There were also elderly people in the flats who struggled to get up and down stairs.
11. As noted above, Mr Coster has objected. However, it appeared to the Tribunal that Mr Coster's objection went to the reasonableness of incurring the cost of the Works and not whether there should be a dispensation from full consultation for the Works. The reasonableness of incurring that cost and the reasonableness of the cost of the Works are of course issues which Mr Coster can raise at a later stage, before the Tribunal if necessary. Mr Whittle also explained to the Tribunal that since the Works had already been anticipated albeit brought forward there was sufficient provision for payment of the Works in the reserve fund.
12. Mr Whittle also explained that there had been much discussion both informal and formal with the lessees about the Works and the application for dispensation. A form of waiver had been sent to the lessees of all 38 flats. Of those in the affected block (flats 17-38) 16 lessees had signed and returned the waiver forms agreeing to waive the consultation rights conferred by section 20. The remaining 6 lessees

had not returned the forms. The lessees in Block A will of course have to bear their share of the costs but are not directly affected by the urgency of the situation in the same way. Three of those 16 lessees have, notwithstanding that, signed and returned the waiver forms. The remainder have not responded.

13. The Tribunal accepts that it is reasonable to dispense with the formal consultation requirements so far as it is necessary to do so in order that the Works can start as soon as possible. Accordingly, the Tribunal grants the dispensation as requested.
14. For the avoidance of doubt, the only issue for the Tribunal to determine on this occasion is whether or not it is reasonable to grant the dispensation sought in relation to statutory consultation requirements. This determination does not concern the issue of whether any service charge costs will be reasonable or payable.

Name: Ms L Smith

Date: 14 August 2013