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

Case reference : **LON/OOAP/LDC/2014/0120**

Property : **Fitzroy Court, 57-59 Shepherds Hill, London N6 5RD**

Applicant : **Fitzroy Court (Shepherds Hill) Limited**

Representative : **Marion Elizabeth Goldby, Director**

Respondent : **The lessees listed in the schedule to the application**

Type of application : **To dispense with the requirement to consult leaseholders**

Tribunal members : **Ms N. Hawkes
Mr D. Jagger FRICS**

Venue : **10 Alfred Place, London WC1E 7LR**

Date of decision : **29th October 2014**

DECISION

Background

1. The applicant has applied to the Tribunal under S20ZA of the Landlord and Tenant Act 1985 ("the 1985 Act") for dispensation from the consultation requirements contained in section 20 of the 1985 Act in respect of certain qualifying works to Fitzroy Court, 57-59 Shepherds Hill, London N6 5RD ("the property").
2. The property comprises a purpose built six storey block containing twenty-four two bedroom flats which was built in 1964.
3. This application is dated 15th September 2014 and it is made in relation to proposed damp remedial work. Directions were issued by the Tribunal on 18th September 2014. The directions provide for this matter to be allocated to the paper track unless any party requests an oral hearing. No oral hearing has been requested and, accordingly, the Tribunal has determined this application on the papers.
4. The applicant has provided the Tribunal with the following information. The applicant states that external repair and redecoration work to the property was due to be carried out in 2014. Specifications were drawn up in May 2013; tenders were invited; a statutory consultation was undertaken; and contracts for the work were entered into in July 2013. However, in December 2013, water penetration occurred which was so severe that the applicant decided that a throughout investigation of the cause of the damp was required. This investigation would necessitate the use of scaffolding.
5. Scaffolding was due to be erected in the spring of 2014 and, in May 2014 as soon as the scaffolding was in place, tenders were sought for the investigative work and a contractor was appointed. The applicant could not know the extent of the remedial work until it received the specialist report.
6. The report was delivered on 27th August 2014 and costings were provided on 2nd September 2014. The report revealed some serious defects in the construction of the property which necessitated more extensive repair work than had been anticipated.
7. Further, the applicant states that postponing all or part of the work for long enough to enable it to complete the statutory consultation process which would involve removing and later re-erecting the scaffolding which would add a further £19,000 to the overall cost and would prolong the disruption to the leaseholders.
8. Twelve of the lessees have informed the Tribunal that they support the applicant's application for dispensation and none of the lessees have informed the Tribunal that they oppose the application.

The Tribunal's determination

9. Section 20 of the 1985 Act provides for the limitation of service charges in the event that statutory consultation requirements are not met. The consultation requirements apply where the works are qualifying works (as is the case in this instance) and only £250 can be recovered from a tenant in respect of such works unless the consultation requirements have either been complied with or dispensed with. The consultation requirements are set out in the Service Charges (Consultation Requirements) (England) Regulations 2003.
10. Section 20ZA of the 1985 Act provides that where an application is made to the 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.
11. Having considered the application, the evidence in support and the lack of any opposition to this application on the part of the lessees, the Tribunal determines, pursuant to section 20ZA of the Landlord and Tenant Act 1985, that it is reasonable in all the circumstances of this case to dispense with the statutory consultation requirements in respect of the work described in this application.
12. **This decision does not concern the issue of whether any service charge costs will be reasonable or payable.**

Judge Ms N Hawkes

Date 29th October 2014