



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

Case reference : **LON/00BK/LDC/2020/0034 P**

Property : **12, 13 and 14 Connaught Place (also known as Stanhope House), London W2 2ET**

Applicant : **Mr Raymond Harris Esdaile (1) and the Estate of Mr David Louis Esdaile (2)**

Representative : **Northover Litigation/ Westbury Residential, (managing agents)**

Respondent : **The Leaseholders at the Property**

Representative : **none**

Type of application : **Dispensation under s20ZA Landlord and Tenant ACT 1985**

Tribunal member : **Tribunal Judge Dutton**

Date of decision : **14th May 2020**

DECISION

Decisions of the Tribunal

- (1) This has been a remote hearing on the papers which has been not objected to by the parties. A face to face hearing was not held because it was not practicable and all issues could be determined on paper. The documents that I was referred to are in a bundle of 60 pages, the contents of which I have noted.
- (2) I determine that dispensation should be granted from the consultation requirements under s20 of the Landlord and Tenant Act 1985 (the Act) and the Service Charges (Consultation Requirements)(England) Regulations 2003 for the reasons set out below.
- (3) I make no determination as to the standard of the works or the reasonableness of the costs of same, these being matters which can be considered, if necessary, under the provisions of s27A and s19 of the Act.

The application

1. The applicant seeks a determination pursuant to s20ZA that there should be dispensation from all or any of the consultation requirements provided for by section 20 of the Act. The application is made by Mr Raymond Esdaile and the estate of Mr David Esdaile. The dispensation relates to the replacement of the communal hot water and heating boilers.
2. The application is dated 17th February 2020 and directions were issued on 27th February 2020. As a result of the intervening Covid 19 pandemic the consideration of this matter has been delayed. It is not possible to discern from the papers supplied to me whether the works have now been undertaken. One rather hopes that they have.
3. Directions invited each leaseholder to submit any objections by 12th March 2020. So far as I aware no objections have been received by the Tribunal. There is some correspondence between Alison Mooney a director of Westbury Residential, the managing agents and Mr Rafael Tonial but no indication that Mr Tonial objects to the works being undertaken.
4. In the papers before me is a copy of the application, with an explanation as to why dispensation is sought, a copy of a lease (flat 4) and a quote from Cleanheat in the sum of £21,225.36 plus VAT, some £1,400 or so more than the figure referred to in the application. Although the application refers to a report it was not included in the bundle. There was however a copy of an email dated 17th February 2020 sent by Ms Mooney to all leaseholders explaining the landlords intentions and asking anyone who objected to let her know by 21st February 2020. As I indicated above there is no evidence before me that any leaseholder has objected.

Findings

5. The Law applicable to this application is to be found at s20ZA of the Act. I have borne in mind the Supreme Court decision in Daejan and Benson although no objection has been raised, nor has there been any allegation of prejudice to the leaseholders. The failure of the boilers supplying hot water and heating is an extremely serious matter and I accept needs to be attended to as quickly as possible. I am told that there are elderly persons living in the Property.
6. The lease provided in the bundle, which I assume reflects the terms of all leases in the building, shows that the Landlord is responsible for maintaining the heating and hot water system. The leaseholder is obliged to contribute to the Lessors Expenses which is defined in the lease, which includes this work.
7. As indicated above no leaseholder has objected to the application or raised issues of prejudice if dispensation is granted. My decision to grant dispensation does not preclude any leaseholder from challenging the standard of works or the costs of same under the provisions of section 19 and 27A of the Act.

Andrew Dutton

Name: Tribunal Judge
Dutton

Date: 14th May 2020

ANNEX – RIGHTS OF APPEAL

1. If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber) then a written application for permission must be made to the First-Tier at the Regional Office which has been dealing with the case.
2. 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.
3. If the application is not made within the 28-day time limit, such application must include a request to an extension of time and the reason for not complying with the 28-day time limit; the Tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed despite not being within the time limit.
4. The application for permission to appeal must identify the decision of the Tribunal to which it relates (ie 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