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

Case Reference : LON/00AM/LDC/2013/0115

Property : 20 Queensdown Road
London E5 8NN

Applicant : Residential Block Management
Services Ltd

Respondent : Mr P Mortimore (Flat A)
Mr O Sadiq (Flat B)
Mr E Hagan } (Flat C and
Ms C Hancox } freeholders)

Type of Application : Dispensation from consultation
requirements under s.20 Landlord
and Tenant Act 1985

Tribunal Members : Judge Nicol
Mr P Tobin FRICS MCI Arb

**Date and venue of
Hearing** : 20th November 2013
10 Alfred Place, London WC1E 7LR

Date of Decision : 21st November 2013

DECISION

Decisions of the Tribunal

- (1) The Tribunal determines that it is reasonable to dispense with the consultation requirements under section 20 of the Landlord and Tenant Act 1985 and the Service Charge (Consultation Requirements) (England) Regulations 2003 in relation to the erection of scaffolding for the purposes of investigating the water ingress to the subject property and proposing remedial works.
- (2) The Tribunal further determines that it is reasonable to dispense with the consultation requirements in relation to the remedial works themselves subject to the following conditions:-

- a) The cost of the remedial works do not exceed an amount equal to £250 per flat; or
 - b) If the cost does exceed an amount equal to £250 per flat, none of the Respondents present an objection to the proposed remedial works in accordance with the timetable set out below.
- (3) If and when the Applicant obtains a quote or estimate for the works to remedy the water ingress which they intend to go ahead with, they shall provide a copy as soon as practicable to each of the Respondents. If any of the Respondents wish to object to the consultation requirements being dispensed with in relation to those works, they must notify the Applicant and the Tribunal within five working days of receipt of the quote or estimate.

The Tribunal's reasons

1. Since about the end of September 2013 there has been ongoing water ingress at the back parapet wall between the subject property, a three-storey converted Victorian house, and the neighbouring property at number 18. The Applicant, who the Tribunal appointed in 2011 as manager of the building, wants to erect scaffolding at an estimated cost of £1,250 so that a builder can investigate and quote for remedial works (the owners of number 18 have verbally agreed to pay half the cost although a party wall notice has yet to be served). The Applicant further wants those works to be able to start immediately.
2. Both the scaffolding and the works would be delayed if the Applicant were required to go through the full statutory consultation process under section 20 of the Landlord and Tenant Act 1985 and the Service Charge (Consultation Requirements) (England) Regulations 2003. Therefore, on 25th October 2013 the Applicant applied for dispensation from those requirements in accordance with section 20ZA of the Act.
3. The Respondents have been given an opportunity to say whether they object to the Applicant's plans, including by letter dated 3rd October 2013, but they have not done so. One of the Respondents, Mr Hagan, signed a form saying that he did not object to this matter being decided on the papers, without a hearing.
4. The Tribunal heard the application on 20th November 2013. Mr Nicholas St Clair from the Applicant attended but none of the Respondents did so. Mr St Clair explained that, following the experience of carrying out major works to the building in 2012, he would expect the scaffolding costs to exceed £250 per lessee, thus engaging the consultation requirements, whereas the remedial works themselves might be only £450 in total which would not engage the consultation requirements.

5. While it is preferable that the remedial works be completed as soon as practicable, they cannot be regarded as urgent since the water ingress currently affects only the hall of the top floor flat rather than any living space.
6. In the circumstances, particularly the lack of objection from the Respondents, the Tribunal is satisfied that it is reasonable to dispense with the statutory consultation requirements in relation to the erection of the scaffolding.
7. However, it would only be reasonable to dispense with them in relation to the remedial works themselves after it has become clear whether the requirements are engaged and, if so, the Respondents have had a further opportunity to see and consider what is proposed. The Tribunal has accordingly made directions as set out above at the start of this decision.

Name: NK Nicol

Date: 21st November 2013