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

Case Reference : Lon/00AF/LDC/2014/0153

Property : Flats 1-5, Greenhayes Lodge, 87, Corkscrew Hill, West Wickham Kent BR4 9BA

Applicant : Appointmoor Limited

Representative : Acorn Estate Management

Respondents : The five long lessees of flats 1-5 Greenhayes Lodge

Representative : None

Type of Application : Dispensation with consultation requirements – section 20 ZA Landlord and Tenant Act 1985

Tribunal Members : Judge John Hewitt
Mrs Sarah Redmond BSc (Econ) MRICS

Date of determination : 8 January 2015

Date of Decision : 8 January 2015

DECISION

Decision

1. The decision of the tribunal is that it grants dispensation for the applicant to comply with the consultation requirements imposed by section 20 Landlord and Tenant Act 1985 (the Act) in respect of proposed works to supply and fit a new motor and ground box to the rear entrance gates of the development.

Reasons

2. Greenhayes Lodge comprises a development of five flats with associated parking spaces and amenity grounds. The applicant is the landlord. Each of the respondents is the proprietor of a long lease of a flat within the development.
3. Evidently there are front and rear entrances to the development. The rear gates are electronically controlled. It appears that the motor and ground box which operate the gates has failed and requires to be replaced.
4. The applicant has made an application pursuant to section 20ZA of the Act and seeks the grant of dispensation with the consultation requirements imposed by section 20 of the Act in relation to the proposed qualifying works. The applicant asserts that the contribution of each respondent will exceed £250 and that the works are required to be carried out urgently to overcome security implications because, at present, the gates are kept permanently in the open position.
5. Directions were given on 20 November 2014. The applicant has broadly complied with the directions. The directions indicated an intention on the part of the tribunal to determine the application without an oral hearing and on the basis of documents to be provided, unless an application for an oral hearing was made by 17 December 2014. The tribunal has not received any such application.
6. Four of the respondents, the lessees of flats 1, 2 4 and 5 have stated that they do not oppose the application and some of them have reiterated the need for urgency for security reasons.
7. One respondent, Ms Shaw, the lessee of flat 3, has by an email dated 20 November 2014, made representations opposing the application. Ms Shaw did not agree there was a need for urgency, has concerns about the proposed cost of works, in the region of £1,850 inclusive of VAT, and considered that such costs as may be incurred should be drawn down from the reserve fund. No representations were made that Ms Shaw would suffer prejudice if dispensation was granted.
8. The applicant's managing agents have stated that a second quote was to be sought, but has not provided a copy to the tribunal. The managing agents have confirmed that the costs, when incurred, would be defrayed from the reserve fund.
9. We are satisfied that there are genuine concerns about security of the development due to the failure of the gates and that it is reasonable that

remedial works should be carried out promptly. In the absence of assertions that a lessee would suffer prejudice if dispensation was granted, we find that it is reasonable to dispense with the consultation requirements in respect of the proposed works.

10. For the avoidance of doubt we wish to make it clear that in arriving at this determination we do not make any findings as to the reasonableness of the scope or specification of the proposed works or as to the reasonableness of the estimated cost of those works. In due course when the works have been carried out if any respondent has concerns as to the scope and/or cost of the works it is open to him or her to challenge them by way of an application made pursuant to section 27A of the Act if thought fit.

Judge John Hewitt
8 January 2015