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

Case reference : **LON/00AG/LDC/2014/0151**

Property : **Leigh House, 73 South End Road,
London NW3 2RJ**

Applicant : **Southern Land Securities Limited**

Representative : **Hamilton King Management Ltd,
managing agents**

Respondent : **(1) Granger Trust PLC flat 1
(2) Ms R Whelan flat 2
(3) Mr G Patros flat 3
(4) Mr G Hommel flat 4**

Representative : **none**

Type of application : **Dispensation under s20ZA
Landlord and Tenant CT 1975**

Tribunal member(s) : **Tribunal Judge Dutton**

**Date and venue of
determination** : **7th January 2015 at 10 Alfred Place,
London WC1E 7LR**

Date of decision : **7th January 2015**

DECISION

Decisions of the Tribunal

- (1) 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.
- (2) 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 revisited, 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 Hamilton King Management Limited on behalf of the Landlord, Southern Land Securities Limited. The dispensation relates to repair works to a boundary wall separating numbers 73 and 75 South End Road
2. The application seeks retrospective dispensation because, as is set out in the application *“urgent reinforcement works were required to prevent the wall from collapsing, which were duly undertaken by DF Decorating Services for the sum of £4,100 inclusive of VAT. As the wall is shared between 73 and 75 SER the cost we are seeking from the Leaseholders of 73 South End Road is £2,050.00 in total, which exceeds the section 20 limit, hence the application for dispensation”*. The works were apparently completed on 28th October 2014, the problem having surfaced following ivy removal by the owner of 75 South End Road in early August 2014.
3. Directions were issued on 21st November 2014 and each leaseholder was invited to submit any objections by 19th December 2014. No objections have been received by the Tribunal.
4. On 24th November 2014 the Applicant through Hamilton King lodged a bundle of papers, which mirrored those filed with the application received by the Tribunal on 12th November 2014. This bundle included the application, a copy of the lease for flat 1, the DF Decorating invoice dated 28th October 2014 in the sum of £,2050, copies of letters to each leaseholder dated 4th August 2014 in effect the first stage of the consultation under section 20 and some ‘before’ and ‘after’ photographs of the wall in question.

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 photographic evidence supplied shows a wall in poor condition and I accept the need for the rebuilding works and the need for the works to be undertaken as quickly as possible as the wall appears to separate garden land and would have been a danger to any user of the garden.

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 boundary walls (see Seventh Schedule paragraph 3(b)), which, according to the Second Schedule defining common parts, includes at paragraph *“(ii) All boundary walls rails and fences belonging to or jointly maintained by the owner of the freehold of the Property.”* The leaseholder is obliged to contribute to the Lessors Expenses which is defined as those matters set out in the Seventh Schedule paragraphs 1 to 3 and elsewhere.

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

Name: Tribunal Judge
Andrew Dutton

Date: 7th January 2015