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

Case Reference: CHI/43UF/LDC/2013/0040

Property: The Oaks, 58 Bonehurst Road,
Horley, Surrey, RH6 8QF

Applicant: Mr Edward Thompson

Representative: Mr R Crawford, Castle Wildish
LLP, Chartered Surveyors

Respondent: The Lessees

Representative: In person

Type of Application: Section 20ZA Landlord & Tenant
Act 1985-to dispense with
consultation requirement

Tribunal Members: Mr I Mohabir, Tribunal Judge
Mr D Lintott

Date of Decision: 4 September 2013

DECISION

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Introduction

1. This is an application made by the Applicant under section 20ZA of the Landlord and Tenant Act 1985 (as amended) ("the Act") to dispense with the consultation requirement under Schedule 4, Part 2 of the Service Charges (Consultation Requirements) (England) Regulations 2003 in relation to roof works carried out to the property known as The Oaks, 58 Bonehurst Road, Horley, Surrey, RH6 8QF ("the property").
2. The property is described as a purpose built block of flats comprised of 12 flats. The Applicant is the freeholder, which is managed on his behalf by Castle Wildish LLP, Chartered Surveyors. Under the terms of the residential leases granted in respect of each flat, the Applicant is generally obliged to repair and maintain the property.
3. The factual background of this application is that in January 2013, Castle Wildish were contacted by White & Sons, estate agents, on behalf of Mr Watkins, the joint lessee of Flat 10 regarding continuing water ingress to that flat. It seems that Flat 11 was also affected. The joint lessee of Flat 11 is Mrs Brierley.
4. In February 2013, Castle Wildish arranged for contractors to attend the property and prepare an estimate for the proposed roof works. Two estimates were obtained and the estimate provided by C J Draper dated 21 February 2013 in the sum of £2,985 plus additional scaffolding costs of £1,690 was accepted in May 2013.
5. The proposed work was to repair a leak found along the valley between the two pitched roofs by stripping and renewing the felt covering and the lead dressing.
6. It seems that a further complaint was made about further water ingress to Flat 10 by White & Sons on behalf of Mr Watkins as a result of the prevailing weather at the time. Given the urgent nature of the

proposed works, Castle Wildish informed the lessees by a letter dated 17 May 2013 that they would commence on or about 20 May 2013. Apparently, the works commenced on or about 27 May and were completed about mid-June 2013. The final costs of the works was £5,565 (including the scaffolding costs) and was greater than the estimate provided because the scope of the work had increased as a result of 20 new roof tiles and an additional strip of felt being fitted at a cost of £890. It was decided that it would save time and cost to have the additional work carried out whilst C J Draper was on site, rather than have it done at a later date. For the purpose of this application, the additional work carried out was treated by the Tribunal as part of the same contract of works.

7. Subsequently, on 20 June 2013 the Applicant made this application seeking retrospective dispensation from the requirement to carry out statutory consultation under section 20 of the Act for proposed works. On 27 June 2013, the Tribunal issued Directions.

The Law

8. Section 20ZA of the Act provides the Tribunal with a discretion to grant dispensation to a landlord from having to carrying out statutory consultation under section 20 of the Act where it is satisfied that it is reasonable to do so.

Hearing and Decision

9. The initial hearing in this matter took place on 24 July 2013 following a ground level inspection of the property earlier that morning. The Applicant was represented by Mr Crawford and Mr Slight, both from Castle Wildish. The only lessee who attended was Mrs Brierley of Flat 11.
10. The Tribunal was unable to proceed with the hearing because Castle Wildish, it seems, had not received a copy of the Directions and, therefore, had not filed or served the Respondents with the evidence

relied upon in support of the application. Mrs Brierley told the Tribunal that she had received a copy of the Directions. When asked by the Tribunal, she said that she was not objecting to the necessity of having the roof works carried out. Indeed, she said that the works had been done well and that her flat was no longer affected by water ingress. Her objection was that the Applicant had not carried out statutory consultation.

11. The Tribunal concluded that it could not proceed as a result of the procedural irregularity and adjourned the case with supplemental directions, which included that the hearing proceed by way of a paper determination on the next occasion.
12. The adjourned hearing took place on 4 September 2013 and was based solely on the evidence filed by the parties. The only lessees who have responded to the application are Mr and Mrs Watkins and Mrs Brierley.
13. By a letter dated 31 July 2013, Mr and Mrs Watkins confirm that the roof repairs have been effective in remedying the leaks to their flat. Their complaint appears to be that the repairs were long overdue and the consequence of the water ingress was the loss of a tenant and rental income for a period of 2 months.
14. By an e-mail dated 24 August 2013, Mrs Brierley complained about the standard of some of the roof works.
15. It should be noted that none of the matters complained of by Mr and Mrs Watkins and Mrs Brierley fall within this application. It is concerned solely about whether or not the Tribunal should grant the dispensation sought by the Applicant. If the standard and cost of the roof works are challenged by any of the lessees, they may do so by making a separate application under section 27A of the Act.

16. The Tribunal found it reasonable to grant this application for the following reasons:
- (a) It was clear that the roof works had been outstanding for some time and the water ingress to Flats 10 and 11 had become urgent in nature.
 - (b) The Tribunal was satisfied that all of the lessees had been provided with sufficient notice of the proposed works, the estimated cost and this application and none had raised any opposition to any of these matters.
 - (c) The Tribunal was satisfied that the Respondents are not prejudiced in any other way by granting this application.

Appeals

17. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application to the First-tier Tribunal at the Regional office, which has been dealing with the case.
18. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.
19. If the person wishing to appeal does not comply with the 28-day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28-day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.

20. The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking.

Judge I Mohabir

4 September 2013