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

Case Reference : **LON/OOAW/LDC/2013/0073**

Property : **10 & 12 Cadogan Square, London
SW1X 0JU**

Applicant : **10 & 12 Cadogan Square
Management Ltd.**

Representative : **D & G Block Management
67-68 Warwick Square London
SW1V 2AR**

Respondents : **The lessees of 10 and 12 Cadogan
Square London SW1X 0JU**

Representative : **None provided**

Type of Application : **S20ZA of the Landlord and Tenant
Act 1985 - dispensation of
consultation requirements**

Tribunal : **Naomi Hawkes
Neil Martindale FRICS**

**Date and venue of
Hearing** : **10 Alfred Place, London WC1E 7LR**

Date of Decision : **17 September 2013**

DECISION

Ref: LON/OOAW/LDC/2013/0073

1. The Applicant, 10 & 12 Cadogan Square Management Ltd., has, through its agents, D & G Block Management, applied to the Tribunal by an application under S20ZA of the Landlord and Tenant Act 1985 (“the 1985 Act”) for dispensation from the consultation requirements contained in section 20 of the 1985 Act in respect of external work to 10 and 12 Cadogan Square, London, SW1X 0JU (“the Property”).
2. The application which is dated 24th July 2013 was received by the Tribunal on 29 July 2013. The Respondents listed in the application are the tenants of the eleven flats; five in 10 Cadogan Square and six in 12 Cadogan Square. The Property is described in the application as a “6 storey conversion of 2 buildings into 11 units”.
3. A copy of the lease for Flat 1, 10 Cadogan Square has been supplied to the Tribunal. With no evidence to the contrary, it is assumed that all of the residential leases are in essentially the same form.
4. The qualifying works are described in the application as “*External decorations to numbers 10 & 12 Cadogan Square.*” It is stated in the application that the works are due to start imminently and the contract has been placed with the contractor.
5. The application also provides: “*Number 12 Cadogan Square is due for external decorations and a full section 20 consultation has been completed for this building...It was intended that the works to number 12 would be undertaken by Redwood contractors who submitted the lowest estimate. The lessees of number 10 were not expected to contribute to this work.*”
6. The Applicant explains that, after completing the consultation process for the works to 12 Cadogan Square, masonry fell from 10 Cadogan Square and it was therefore decided to bring forward future external work that had been planned for 10 Cadogan Square and to undertake both sets of work at the same time.
7. The Applicant considers that there would be a clear benefit to the lessees in combining the two sets of work. The contractors who were undertaking the work to number 12 were asked to provide a quotation for the work to number 10. The Applicant’s agent then contacted all 11 leaseholders explaining the situation and asking for their agreement to the proposal.
8. The agent stated that “*The response was favourable from all but one lessee and the landlord has agreed to cover these costs themselves.*”

9. Directions of the Tribunal were issued on 5th August 2013, without an oral Pre-Trial Review. The Applicant has requested a paper determination. No application has been made for on behalf of any of the Respondents for an oral hearing. This matter was therefore determined by the Tribunal by way of a paper determination on Tuesday 19th September 2013.
10. The Tribunal did not consider that an inspection of the property would be of assistance nor would it have been proportionate to the issues in dispute.

The Applicant's case

11. In written submissions dated 4th September 2013, the Applicant reiterates the matters relied upon in the application and states: *"By dispensing with consultation requirements the contract can be placed with Redwood. The benefit to the lessees is that the works can take place at the same time as those taking place in number 12 under a joint scope of work. This means the overhead costs will be lower and there should be less disruption to the residents. Further more it was clear that Redwood were competitive as they won the work to No 12 based on submitting the lowest price and their estimate for the works to No.10 was based on the same rates."*
12. The Applicant states that the works commenced on 29 July 2013.

The Respondents' case

13. None of the Respondents have filed written representations or requested an oral hearing. The tenants of Flats 1, 2, 3, and 5 at 10 Cadogan Square all support the Applicant's application and no written representations to the Tribunal have been received from Flat 4. The leaseholders of the six flats at 12 Cadogan Square have not filed any written representations and the Tribunal notes the full consultation procedure has been followed in respect of the equivalent work to 12 Cadogan Square.

The Tribunal's determination

14. Section 18(1) of the 1985 Act provides that a service charge is an amount payable by a tenant of a dwelling as part of or in addition to the rent, which is payable for services, repairs, maintenance, improvements or insurance or the landlord's costs of management, and the whole or part of which varies or may vary according to the costs incurred by the landlord.

15. Section 20 of the 1985 Act provides for the limitation of service charges in the event that the statutory consultation requirements are not met. The consultation requirements apply where the works are qualifying works (as in this case) and only £250 can be recovered from a tenant in respect of such works unless the consultation requirements have either been complied with or dispensed with.

16. Dispensation is dealt with by section 20ZA of the 1985 Act which provides:-

Where an application is made to a leasehold valuation tribunal for a determination to dispense with all or any of the consultation requirements in relation to any qualifying works or qualifying long term agreement, the tribunal may make the determination if satisfied that it is reasonable to dispense with the requirements

17. The consultation requirements are set out in the Service Charges (Consultation Requirements) (England) Regulations 2003. The scheme of the provisions is designed to protect the interests of tenants and the Tribunal must have a cogent reason for dispensing with the consultation requirements.

18. The contractors' tenders and the specifications upon which they were based have been considered by the Tribunal. The pricing of the work to 10 Cadogan Square appears to be broadly in line with that for the work to 12 Cadogan Square. The work to 12 Cadogan Square is being carried out by the same contractor and the contact price for that work was agreed following a full section 20 consultation process. The Tribunal considers that, if a full consultation had been carried out for work to 10 Cadogan Square, to take place separately, the costs could well have been higher to the detriment of the leaseholders of 10 Cadogan Square.

19. In all the circumstances, the Tribunal determines, pursuant to section 20ZA of the Landlord and Tenant Act 1985, that it is reasonable to dispense with the statutory consultation requirements in respect of the work described in the Applicant's application dated 24th July 2013.

20. It should be noted that, as stated at paragraph 3 of the Tribunal's Directions dated 11 July 2013, this decision does not concern the issue of whether any service charge costs will be reasonable or payable.

**Naomi Hawkes
N Martindale FRICS**

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