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

Case Reference : **LON/00AY/LDC/2013/0143**

Property : **Rothesay Court, Harleyford Street,
London SE11 5SU**

Applicant : **Rothesay Court Limited**

Representative : **Kinleigh Folkard & Hayward**

Respondent : **The long leaseholders of the
property, as listed in the schedule
attached to the application form**

Representative : **n/a**

Type of Application : **To dispense with the consultation
requirements under section 20 of
the Landlord and Tenant Act 1985**

Tribunal Members : **Miss J E Guest (Judge)
Mr W R Shaw FRICS
Mr A D Ring (lay member)**

**Date and venue of
paper determination** : **27/01/2014
10 Alfred Place, London WC1E 7LR**

Date of Decision : **30/01/2014**

DECISION

Decisions of the tribunal

The tribunal makes the dispensation order under section 20ZA of the Landlord and Tenant Act 1985.

The application

1. The Applicant seeks an order pursuant to s.20ZA of the Landlord and Tenant Act 1985 (as amended) (*“the 1985 Act”*) for the dispensation of any or all of the consultation requirements. The property concerned is Rothesay Court and the application is made against all the leaseholders listed in schedule attached to the application.
2. The issue in this case is whether the consultation requirements of section 20 of the 1985 Act should be dispensed with given that urgent works were said to be necessary to replace a defective communal boiler.

The background

3. The property which is the subject of this application is described as a purpose-built block of flats consisting of 48 studio flats and a two bedroom flat with a communal heating supply and laundry.
4. The application was made on 09/12/2013 and directions were ordered on 11/12/2013 when it was directed that a copy of the application, supporting documents and the directions order be sent to all leaseholders by 20/12/2013 and that any leaseholder who wished to oppose the application (either individually or collectively) respond by serving a statement of case by 06/01/2014. The tribunal was informed that a copy of the application and directions order was sent to all leaseholders on 16/12/2013.
5. The leaseholders of flats 7, 12, 13, 20, 21, 22, 24, 29 and 38 notified the tribunal that they consented to the application and did not require an oral hearing. The other leaseholders did not respond.
6. As there was no request for an oral hearing, the matter proceeded as a paper determination.
7. The tribunal did not consider that an inspection was necessary and it would not have been proportionate to the issues in dispute.

The issues

8. The only issue before the tribunal is whether it should grant dispensation from all or any of the consultation requirements contained in section 20 of the Landlord and Tenant Act 1985.

The Applicant's case

9. The Applicant filed a bundle of documents in accordance with the directions, which was considered by the tribunal.
10. The tribunal was informed that the communal boiler was found to be defective when it was switched on in October 2013 and that attempts to repair were unsuccessful so that the only option was replacement. The works were considered urgent in view of the cold winter weather and the number of elderly residents. Works to replace the boiler were completed on 11/12/2013 and there were sufficient funds in reserve to fund the cost.

The Respondents' position

11. The directions provided that any leaseholder who wished to oppose the application for dispensation serve a statement of case. None of the leaseholders have served any statements of case.
12. The tribunal concluded that the application was not, therefore, opposed.

The tribunal's decision

13. The tribunal determines that an order under section 20ZA of the 1985 Act shall be made dispensing with all of the consultation requirements in relation to the works outlined above.

Reasons for the tribunal's decision

14. The tribunal has the jurisdiction to grant dispensation under section 20ZA of the 1985 Act "*if satisfied that it is reasonable to dispense with the requirements*".
15. In making its decision, the tribunal had regard to the fact that the works were urgent given the importance of heating during the cold winter months.
16. The tribunal would stress that it is not making any assessment of the reasonableness of the charges or whether the works fall with the Respondent's repairing obligations under the terms of the lease. A

challenge to the charges may still be raised under section 27A of the 1985 Act in the future.

Dated: 30/01/2014

Signed: J E Guest