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

Case Reference : **LON/00BE/LDC/2013/0046**

Property : **197 LONG LANE LONDON SE1 4PD**

Applicant : **PARKBRACE LIMITED**

Representative : **RESIDENTIAL PARTNERS
LIMITED**

Respondent : **ALL LESSEES AS PER
APPLICATION**

Representative : **n/a**

Type of Application : **For dispensation from the
consultation requirements
required by section 20 of the
Landlord and Tenant Act 1985**

Tribunal Members : **Dr Helen Carr
Mr Dallas Banfield FRICS**

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

Date of Decision : **14th August 2013**

DECISION

Decision of the Tribunal

1. The Tribunal determines to exercise its discretion to dispense with the consultation requirements contained in Part 2 of Schedule 4 to the Service Charges (Consultation Requirements) England) Regulations 2003.

The Application

2. The landlord of the premises, by its managing agents, Residential Partners Limited, applied on 30th April 2013 under section 20ZA for dispensation from the consultation requirements contained in Part 2 of Schedule 4 to the Service Charges (Consultation Requirements) England) Regulations 2003.

Procedure

3. The Tribunal held a pre-trial review of this matter on 22nd May 2013 and issued directions on the same date. In those directions it was decided that in view of the urgency of the application the matter should be determined on the basis of written representations and without an oral hearing.
4. The Directions gave an opportunity for any party to request an oral hearing. They also gave an opportunity for any leaseholder who wishes to oppose the application from the landlord to provide a statement to the Tribunal setting out his or her reasons for so doing. No request for an oral hearing has been received by the Tribunal and nor has any statement of objection to the landlord's application for dispensation from consultation been received..
5. This matter is therefore being determined on the basis of the papers alone.

Determination

The Evidence

6. The documents provided to the Tribunal indicate as follows:
 - a. There is severe water penetration to flats 64 65 and 66 apparently caused by a failure of the waterproofing system to the balconies related to these flats.

- b. In a comprehensive survey by Building Logic dated 17th July 2013 the defects are identified and remedial works described. The estimated costs of these works are £45,000 per flat.

7. It is on this basis that the freeholder has made the application for dispensation.

The Law

8. The Tribunal is being asked to exercise its discretion under s.20ZA of the Act. The wording of s.20ZA is significant. Subs. (1) provides:
9. “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**” (emphasis added).
10. In light of the evidence provided to the Tribunal by the applicant, and in the absence of any objections from the leaseholders, the clear urgency of the matter and the patent necessity of the works the Tribunal determines to exercise its discretion to dispense with the consultation requirements

The parties should note that this determination does not concern the issue of whether any service charge costs will be reasonable or indeed payable. The Respondents are able, if it appears to them to be appropriate, to make an application under s.27A of the Landlord and Tenant Act 1985 as to reasonableness and payability.

Signed

Dr Helen Carr

Dated 14th August 2013