

10372



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

Case reference : LON/00BG/LDC/2014/0127

Property : 42a Commercial Road, London E1
1LN

Applicant : Southern Land Securities Limited

Representative : Hamilton King Management Ltd

Respondents : Mr. L Biro (flat 1)
Ms. K Israel (flat 2)

Representative : None

Type of application : To dispense with the requirement
to consult lessees about major
works

Tribunal Judge : Mr L Rahman (Barrister)

**Date and venue of
hearing** : 28th October 2014 at 10 Alfred
Place, London WC1E 7LR

Date of decision : 28th October 2014

DECISION

Decision of the tribunal

- (1) The tribunal determines it is reasonable to dispense with the relevant consultation requirements.

The application

1. An application has been made under s.20ZA of the Landlord and Tenant Act 1985 ("the 1985 Act") for retrospective dispensation from the consultation requirements in relation to works undertaken by the applicant between April and May 2014.
2. The applicant confirmed it was happy for the application to be dealt with on paper if the tribunal thought it appropriate. The tribunal considered the matter may be justly and fairly dealt with on the papers without an oral hearing. The respondents have not requested an oral hearing.

The background

3. The property which is the subject of this application is a 3 storey terraced building constructed circa early 20th century with a shop unit occupying the ground floor and flats on the first and second floors.
4. The works for which the applicant sought a dispensation of the consultation requirements were in relation to the exterior of the building to prevent water ingress into the top floor flat.
5. The respondents would each be responsible for the proportion required under the terms of their leases.

The applicant's case

6. The applicant states it was advised of damp patches inside the second floor flat (to the walls and ceilings to the rear of the flat) on 4th March 2014 by Ms Israel. Its contractor investigated the damp and advised that a surveyor be instructed to recommend the works that were necessary. Angell Thompson (surveyor) were instructed on 20th March 2014 and attended the following week and set out their recommendations in a report dated 4th April 2014.
7. The applicant obtained 3 quotes to carry out the works as recommended by the surveyor. Two were dated the 28th and one was dated 30th April 2014.
8. The applicants managing agent wrote to the respondents on 30th April 2014 stating it had recommended that external works to the building be carried out (which it considered necessary to maintain and repair the property in accordance with the terms of the lease(s)) and invited written

observations and any contractors they wished to nominate by 30th May 2014.

9. In the meantime Ms Israel continued to contact the applicant on a daily basis chasing the quotes and advising the damp was getting worse and her tenants were complaining of water ingress. Ms Israel requested the works be carried out urgently.
10. The applicant instructed Standard Builds to carry out the works as it had provided the lowest quote (£1,338 inclusive of vat). The works were completed over one weekend between April and May 2014.

The respondent's case

11. The tribunal issued directions on 1st October 2014 stating that any respondent who opposes the application for dispensation shall provide a statement of case setting out their objection and details of any evidence on which they wished to rely. The direction stated the tribunal will be entitled to take it that any respondent who does not reply agrees with the application and does not wish to supply any evidence or statement of case.
12. No representations have been received from the respondents.

The tribunal's decision

13. The tribunal can only make a determination to dispense with the consultation procedure if it is satisfied that it is reasonable to do so. The purpose of the procedure under s.20 of the 1985 Act is to ensure that the long leaseholders do not suffer any prejudice when they are asked to pay for works that cost in excess of £250 per flat. The legislation recognises that there may be instances of urgency where the lengthy consultation process, designed to give the long leaseholders full information about the works and to enable them to make comments and propose a contractor to be asked to provide a quote, cannot be followed and that is the reason for the dispensation provisions under s.20ZA of the 1985 Act.
14. This is an unopposed application. The applicant has attempted to comply with as much of the formal consultation requirements as possible. The tribunal found the work was of an urgent nature. Delaying the work was likely to have caused further damage and increase the overall cost in the long run.
15. For the reasons given, the tribunal is satisfied it is reasonable to dispense with the relevant consultation requirements contained in s.20 of the 1984 Act.

16. The dispensation of any or all of the requirements of s.20 of the 1985 Act does not indicate that the cost itself is reasonable or that the work / service is of a reasonable standard. The respondents may, if they wish, make a subsequent application under s.27A of the 1985 Act, challenging either the need or quality of such works, the recoverability of the cost under the lease, or the level of the cost.

Tribunal Judge: L Rahman

Date: 28th October 2014