

10407



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

**Case Reference** : **LON/00BK/LDC/2014/0103**

**Property** : **Clarendon House, 4-7 Strathearn  
Place, London W2 2NG**

**Applicant** : **Church Commissioners for  
England**

**Representative** : **Knight Frank LLP**

**Respondent** : **The Long Lessees of the flats at  
Clarendon House, 4-7 Strathearn  
Place, London W2 2NG**

**Representative** : **None**

**Type of Application** : **Section 20ZA Landlord and Tenant  
Act 1985 – dispensation with  
consultation requirements**

**Tribunal Members** : **Judge John Hewitt  
Mr Ian Thompson FRICS  
Mrs Lucy West**

**Date and venue of  
Determination** : **Monday 10 November 2014  
10 Alfred Place, London WC1E 7LR**

**Date of Decision** : **13 November 2014**

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**DECISION**

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### **Decisions of the tribunal**

1. The tribunal determines that conditional upon the applicant not seeking to recover from the respondents, or any of them, any contribution (whether by way of service charges or otherwise) to the costs incurred or to be incurred by the applicant in connection with these proceedings, an order is hereby made by which the tribunal grants the applicant dispensation for the need to comply with the consultation requirements imposed by reason of section 20 Landlord and Tenant Act 1985 (the Act) in connection with qualifying works described in paragraph 13 below (the Works).
2. The reasons for our decision are set out below.

**NB** Later reference in this Decision to a number in square brackets ([ ]) is a reference to the page number of the hearing file provided to us for use at the hearing.

### **Procedural background**

3. The applicant is said to be the landlord of the property, which described as a multi-tenanted period terraced house converted to provide 11 residential units over 5 floors. It appears that some of the residential units have been sold off on long leases. Sample long leases are at [11] and [69].
4. On or about 22 August 2014 the applicant made an application [2] pursuant to section 20Za of the Act for an order dispensing with the statutory requirement imposed by section 20 of the Act to consult fully with the long leaseholders regarding works to the roof and the provision of a cold mains water supply to the property and the flats within it.
5. Directions were given on 2 September 2014 [48]. The directions made clear that the only issue for the tribunal to decide is whether or not it is reasonable to dispense with the statutory consultation requirements.
6. The directions gave notice of an intention to dispose of the application without an oral hearing, and to do so on the papers to be filed and served pursuant to the directions. The parties were reminded that they had the right to request an oral hearing and that any request for such was to be made as soon as possible. The tribunal has not received any requests for an oral hearing.
7. Direction 3 provided that if any leaseholder wishes to respond to the application (whether supporting it or opposing it) they should, by no later than 10 October 2014, complete a form attached to the directions and send it to both the applicant's managing agents, Knight Frank LLP, and to the tribunal. The tribunal has not received any responses from any of the respondents and Knight Frank has reported to the tribunal that it has not received any responses either.

8. The applicant has provided the tribunal with further background information and a hearing file in accordance with the directions.
9. The application therefore came on for determination by us on the papers on 10 November 2014.

### **The history to the carrying out of the Works**

10. The documents presented to the tribunal suggest that defects in the roof of the property allowed rainwater to penetrate into the top floor flat, flat 12, starting in about June 2013 with further leaks occurring on 15 October and 31 December 2013, the latter serious leak also affecting flat 11 below.
11. At the material time flat 12 was undergoing internal refurbishment by the lessee, which works opened up and exposed structural wooden beams. Some timber rot was observed and on 9 December 2013 a structural engineer recommended replacement of the affected timber beams.
12. Cold water tanks sat on the roof of the property substantially above the affected beams. Access to effect the repair works necessitated the removal of the water tanks. Initially it was decided to provide temporary water tanks, and this was done but later, following an informal consultation with the long leaseholders, the decision was taken to adapt the works, to do away with the cold water tanks and to provide a direct cold water mains supply to each flat.

### **The Works carried out**

13. A specification of works was prepared and put out to tender and two quotations obtained. A contract was placed with Masterfix whose detailed quotation in the sum of £35,850 incl of VAT is at [32]. Supplemental works were required at a cost of £12,078 incl of VAT as detailed at [66]. Thus the total cost of the Works amounted to £47,928.00.
14. The Works started on 2 May and evidently were completed by 12 June 2014.
15. We are satisfied that the Works carried out were qualifying works for the purposes of section 20 of the Act.

### **The grounds relied upon by the applicant**

16. The applicant submits that the water leaks into flats 11 and 12 required quick remedial action. At the time internal refurbishment of those two flats was in hand which caused the applicant's advisers to conclude it was essential to carry out appropriate repairs as quickly as possible and as such it was not feasible to carry out a full section 20 consultation exercise.

### **Reasons for our decision**

17. We are satisfied that remedial repairs to the roof were reasonably required. We are satisfied that a level of informal consultation took place with the long leaseholders, particularly with regard to conversion from cold water tank supply to direct mains supply and that the nine responses received by Knight Frank were all positive with no objections.
18. We are also satisfied that there was a level of competitive tendering for the work and the contract was placed with the lowest tenderer.
19. None of the long leaseholders has taken any part in these proceedings and none has opposed the application or asserted that they have suffered any prejudice as a consequence of the full consultation process not being carried out.
20. In the circumstances we find it is reasonable to make an order granting the dispensation sought.
21. We have made our order conditional upon the applicant not seeking to recover any costs of these proceedings from any of the respondents because we find that with greater forethought and planning the project could have been managed in such a way which would have avoided the need for this application.
22. For avoidance of doubt we make it clear that this decision relates to the grant of dispensation only. We make no formal findings as to whether the scope of the Works was reasonable nor whether the Works have been carried out to a reasonable standard and at a reasonable cost. When the final accounts incorporating the cost of the Works are signed off and served on the respondents it will be open to them to raise such issues as they see fit and, if considered appropriate, to make an application pursuant to section 27A of the Act for any contentious issues to be determined by a tribunal.

Judge John Hewitt  
13 November 2014