



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

Case Reference : LON/00BK/LSC/2014/0444

Property : Flats C & D, 71 Amberley Road, W9
2JL

Applicant : Genesis Housing Association

Respondents : Mr S Basukinskiy (Flat C)
Mr N Norvell (Flat D)

Type of Application : Dispensation from statutory
consultation (section 20ZA
Landlord and Tenant Act 1985)

Tribunal Members : Mr M Martynski (Tribunal Judge)
Miss M Krisko BSc (EST MAN)
FRICS

Date of Decision : 8 October 2014

DECISION

Decision summary

1. The Tribunal orders that the statutory consultation requirements¹ are dispensed with in connection with the replacement of the roof at 71 Amberley Road, W9 ('the Building') and associated works on condition that an insurance backed 20-year guarantee is obtained in respect of the roof replacement.

¹Which are set out at Part 2, Schedule 4 to the Service Charges (Consultation Requirements) (England) Regulations 2003

Background

2. The building in question is a mid-terrace house converted into five flats. Three of the flats are let on short-term tenancies by the Applicant. Flats C & D are subject to long leases held by the Respondents.
3. The Applicant's application for dispensation from the statutory consultation requirements is dated 25 July 2014. That application was not however received at the tribunal offices until 28 August 2014. Directions were given on the application on 2 September 2014. The directions stated that unless any party requested a hearing, the application would be decided on the papers alone. The directions contained a form which the leaseholders could use to respond to the application either opposing or supporting it.
4. There was no application from any party for a hearing of the application. Neither leaseholder made any response to the application itself. We therefore considered the application on the papers provided by the Applicant.

The application and our decision

5. According to the Applicant it was carrying out internal refurbishment works to Flat E in June 2014. There was a report of 'damp penetration' to flat E (which is presumably on the top floor of the Building). What the nature of the damp penetration was we are not told. We were provided with photographs of damp staining on the ceiling of what was said to be flat E. Whether those photographs were of a historic or current leak, it was impossible to tell.
6. The Applicant provided a file note dated 26 June 2014 regarding an inspection of flat D. This flat is presumably also on the top floor of the Building as the note records that 'there were signs of a leak (photos enclosed²) between the parapet wall and eaves which look as if it has been repaired'. Again, we have no idea whether there was an ongoing leak in this flat and if there was, as to the severity of the leak.
7. We were provided with a note of a site visit made on 16 June 2014 by Robson Walsh (Chartered Surveyors). The note recorded that the roof was a typical London roof with a central valley with falls to a hopper head connected to a rainwater pipe. The report noted that the roof was generally in a poor condition. The roof was covered with concrete interlocking tiles 'which have overloaded the roof structure and caused some deflection'. The central valley was reported as being too narrow and holding water and debris. It was said in the note that dampness was still penetrating internally at the front and back of the property.

² The photos provided to us with the documents purported to be of flat E. However it may be that these photos were in fact the ones referred to here and were of flat D.

Again, there is no detail as to the severity of the problem. The note recommends that the roof be stripped and that the main roof frame be strengthened and the roof recovered with manufactured slates with a widened central valley gutter. Various associated works were also recommended such as re-pointing and re-rendering. There does not appear to have been any consideration as to the carrying out of repairs and minor re-design as an alternative to the complete replacement of the roof.

8. We were provided with photographs of the roof which appeared to show several places where leaks may be occurring. However it appeared from those photographs that the roof tiles themselves were sound.
9. We were shown letters dated 30 June 2014 addressed to each leaseholder. The letters state that there is damage to the roof and that the works were estimated at £18,000+. The letter summarises the statutory consultation procedure and goes on to state:-

However due to the nature of the works and current situation with the repair and on-going weather conditions we have decided that the works cannot wait for the Section 20 Consultation period to finish, so are intending to make an application to the First Tier Tribunal (Property Chamber) to dispense of the consultation period and start the works as soon as possible. I have enclosed a copy our Chartered Surveyors report for reference.

10. The summary contained with the documents provided by the Application for the final decision said that the Applicant had discussed the matter 'at length' with the lessees involved. However no details of any consultation over and above the letters referred to above was given.
11. There are two estimates for the works. One in the sum of £18,000 plus VAT, the other in the sum of £19,720.
12. The papers provided for the final hearing indicated that the works were commenced on 22 July 2014. We were not told which contractor was chosen nor if the works had been carried out or the final cost of those works.

Decision

13. We are far from clear as to:-
 - (a) Why the works of full roof replacement needed to be done as opposed to some lesser repairs and modifications
 - (b) Why the works were urgent
 - (c) Why temporary repairs could not have been carried out pending full consultation
 - (d) The extent of the consultation with the leaseholders
14. Given however that neither leaseholder has objected to the application or appears to have made any objection or any other comment regarding the works, it follows that there is no evidence or suggestion of any

prejudice having been caused to any leaseholder by the lack of statutory consultation.

15. Accordingly despite the lack of detail in the application, the Tribunal finds that it is reasonable to dispense with the statutory consultation regulations in connection with the replacement of the roof at 71 Amberley Road, W9 ('the Building') and associated works as recommended by the Applicant's surveyor's inspection note from their inspection of 16 June 2014.
16. Given the lack of any detail as to the actual carrying out of the works, we have considered it necessary to make it a condition of the dispensation that a suitable guarantee is obtained in respect of the new roof.

Mark Martynski, Tribunal Judge

8 October 2014