



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

Case Reference : **LON/00AY/LDC/2019/0027**

Property : **Flat 1 and Flat 2, 12 Barrow Road,
London SW16 5PF**

Applicant : **London Borough of Lambeth**

Representative : **n/a**

Respondents : **Ms Rachel Sarah Conn (Flat 1)
Mr Paul Amadi (Flat 2)**

Representative : **n/a**

Type of Application : **To dispense with the requirement to
consult lessees about major works –
S20ZA Landlord and Tenant Act 1985**

Tribunal Member : **P M J Casey MRICS**

**Date and venue of
Hearing** : **3 April 2019
10 Alfred Place, London WC1E 7LR**

Date of Decision : **5 April 2019**

DECISION

Decision of the tribunal

- (1) The tribunal determines that it is satisfied that it is reasonable to dispense with all or any of the consultation requirements of Section 20 of the Landlord and Tenant Act 1985 and the Service Charges (Consultation Requirements) (England) Regulations 2003 (the Regulations) in respect of what are described in the Application dated 14 April 2019 as urgent works to deal with rising damp problems at Flat 1, 12 Barrow Road, London SW16 5PF (the property).

The application

1. The applicant seeks a determination pursuant to s.20ZA of the Landlord and Tenant Act 1985 (“the Act”) that the consultation requirements of the Act may be dispensed with in respect of certain works at the property.
2. The tribunal issued Directions for the case management of the application on 15 February 2019 and allocated it to the fast track with a paper hearing set down for the week commencing 1 April 2019.
3. The application is not opposed by either of the the residential long leaseholders of the flats at the building. It is not clear if the works have yet commenced.
4. The applicant has provided the tribunal with confirmation that the application and the directions had been communicated to all lessees. It has also, as directed, provided a bundle of documents that it relies on which were read and considered by the tribunal on 3 April 2019.

The evidence

5. In the survey report which includes photographs accompanying the application the property is shown to be a two storey semi-detached former house erected circa 1900. It has been converted into two one bedroomed self-contained flats. Neither the applicant nor any leaseholder requested an inspection and given the photographs and other documents in the hearing bundle the tribunal did not consider one was necessary or proportionate.
6. In its submissions the applicant landlord says it is the freeholder of the property 12 Barrow Road whilst each of the flats is held on a lease of 125 years from 1984. Ms Conn bought the long lease of Flat 1 in October 2018 and on 17 October 2018 e-mailed the applicant’s home ownership team to say the flat needed repairs including a damp proof course and additional air bricks before she moved in. She said she had a builder lined up to do the works and wanted to know that she could have the works done as she was keen to move in. The applicant,

seemingly taking a view that such works were probably its obligation as freeholder under the lease, commissioned a damp survey on 18 October 2018 from Mears Ltd a contractor with which it had entered into a qualifying long term agreement. The survey reported extensive rising and penetrating damp problems with the flat, suggested necessary remedial works and gave an estimate of the cost of doing those works. The two leaseholders were sent a S20 Notice on 6 February 2019 which described the works, said why they were necessary and gave an estimate of their cost which with overhead fees came to £6,280.58 in total. Each leaseholder was also advised of an additional management fee of 10% of their pro rata to rateable value contribution to the works' cost. However, rather than the 30 days required for tenants to be allowed to make representations (and the additional 21 days for the applicant to respond to any such representation) the consultation period was limited to 15 days.

7. The application says this restriction on time was deliberate to allow an early start to the works to prevent further deterioration to the fabric of the building and to allow the leaseholder to occupy the flat as soon as possible and stop having to pay for alternative accommodation. It went on to argue that foreshortening the consultation period had caused no prejudice to the respondents as they had no right to nominate a contractor as the contract was a drawdown from the long term agreement and no comments had been made in the limited period or indeed to this application. The works were needed to be done urgently.

The decision

8. An application under S20ZA does not involve any consideration of whether or not proposed or completed works are service charge chargeable, the reasonableness of the cost of or of the standard of the works. These all remain issues which it is open to leaseholders to challenge when billed for the works. It is solely concerned with whether or not circumstances exist which justify the landlord doing the works without the need to allow the passage of time required to comply with the various consultation stages either in total or in part.
9. The applicant's grounds for seeking dispensation are to deal urgently with its repairing obligation under the lease by dealing with rising and penetrating damp issues affecting the building and the need to prevent further deterioration to the fabric of the building. No objection has been raised by the either leaseholder. The tribunal is satisfied in all the circumstances to allow the application and to grant dispensation from those aspects of the consultation requirements not complied with in respect of the proposed repair works identified in the application.

Name: P M J Casey

Date: 5 April 2019

Rights of appeal

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the tribunal is required to notify the parties about any right of appeal they may have.

If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber), then a written application for permission must be made to the First-tier Tribunal at the regional office which has been dealing with the case.

The application for permission to appeal must arrive at the regional office within 28 days after the tribunal sends written reasons for the decision to the person making the application.

If the application is not made within the 28 day time limit, such application must include a request for an extension of time and the reason for not complying with the 28 day time limit; the tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed, despite not being within the time limit.

The application for permission to appeal must identify the decision of the tribunal to which it relates (i.e. give the date, the property and the case number), state the grounds of appeal and state the result the party making the application is seeking.

If the tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).