

5163



Residential  
Property  
TRIBUNAL SERVICE

**DECISION OF THE LEASEHOLD VALUATION TRIBUNAL**

**LANDLORD AND TENANT ACT 1985 – SECTION 20ZA**

**Ref: LON/00BG/LDC/2010/0053**

**Property:** 36 – 62 Harbinger Road, London, E14 3AA

**Applicant:** EastendHomes Ltd

**Respondents:** Mr M Beckwith (38)  
Mr & Mrs Robson (42)  
Mr N J Noriel (46)  
Mr B Sen (48)  
Ms J & Ms E Bishop (52)  
Mr B & Mrs A Apicella (54)  
Mr A Rahman (56)  
Miss T Coveley (58)  
Ms H Smyth (60)

**Date of decision:** 7<sup>th</sup> July 2010

**Tribunal:** Mrs H C Bowers (Chairman),  
Mrs T Rabin JP

## **Decision**

1.) The Tribunal determines that it is reasonable to dispense with the requirements to consult under section 20 of the Landlord and Tenant Act 1985.

## **Introduction**

2.) By an application dated 17<sup>th</sup> May 2010, the Applicant seeks a dispensation of all or any of the consultation requirements in section 20 of the Landlord and Tenant Act 1985 (the Act).

3.) A paper pre trial review was held and Directions were issued on 25<sup>th</sup> May 2010. It was directed that this matter could be allocated to the Paper Track, unless either party requested a hearing. There was no request for a hearing and therefore this matter was considered on the basis of the papers submitted to the Tribunal.

## **Background**

4.) The Applicant is the landlord of 36-62 Harbinger Road, London, E14 3AA (the subject property). In the application the subject property is described as a building dating from 1956, of concrete frame, with brick cladding and a flat roof construction. The subject property is three storeys and comprises fourteen flats. The Respondents in this matter are the leaseholders in the subject property and are identified in the preamble.

5.) The application states that the subject property is suffering from water ingress and that the occupier of 52 Harbinger Road is unable to use a bedroom due to this water ingress. It is proposed that re-roofing works are required and that the work would take place above 50 and 52 Harbinger Road and that the estimated cost would be in the region of £5,000 plus VAT.

## **The Law**

6.) Section 20ZA of the Landlord and Tenant Act 1985 states:

11.) Two quotations for the work have been received and each quotation is for over £5,000. The application to dispense with consultation was made in order that the roof repairs could be carried out swiftly.

12.) Included in the papers was a brief specification of the works to be undertaken, this document included a detailed drawing showing the scope of the work for a particular section of the roof. There is a quotation from eps dated 20<sup>th</sup> April 2010 for a sum of £5,975 plus VAT and excluding scaffolding and a quotation from Asphaltic Limited dated 27<sup>th</sup> May 2010 for £5,000 plus VAT.

13.) Additionally, the papers included email correspondence that dealt with some of the history surrounding these roof issues.

#### **Respondents' Representations**

14.) There are two letters in the same format dated 13<sup>th</sup> June 2010 from Ms H Smyth (number 60); Ms E Bishop (number 52) and Miss Coveley (number 58). These letters register opposition to the application to dispense. The reasons for the objection are that Eastend Homes should bear the cost of the repair as they have collected service charges in the past; that there has been poor maintenance of the roof.

15.) It is suggested that this item should be covered by building insurance, but note that the insurance company will not cover the cost of the repair and although requested from the leaseholders, they have not been provided with a copy of the insurance policy.

16.) It is acknowledged that there is an urgent need for the work to be carried out, but it is the opinion of the leaseholders that they should not be responsible for the cost of this work.

17.) Supporting documentation was included with the leaseholders' case in relation to the communications between the parties in respect of this matter.

*“(1) 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 agreements, the tribunal may make the determination if satisfied that it is reasonable to dispense with the requirements. ....”*

### **Representations**

7.) There were written representations from both parties and a summary of each case is detailed in the following paragraphs.

### **Applicant's Representations**

8.) Mr K Carroll of the Applicant company explained that the subject property was transferred from the London Borough of Tower Hamlets to the Applicant during January 2006.

9.) It was explained that the roof structure is unusual and that this has hindered the identification of the water ingress problem. There are three sections to the roof covering and the third, rear section is the area causing the current problems. This particular area of the roof was overlaid with an aluminium faced roofing membrane, but this appears to have been breached. There is no detail as to the effect of this breach upon the insulation area of the roof. A trial pit had been dug out, but had not been adequately re-sealed and there is a problem with vegetation growth in the affected area.

10.) The Tribunal were provided with a brief history of the roof repairs that had been carried out since 2006. It was noted that the Applicant had no knowledge of roof repairs prior to the stock transfer. A number of inspections were carried out to the roof area during the early part of 2010 and due to the inability to identify the location of the defect it was decided that the scope of the works should be increased to cover the roof area of 50 and 52 Harbinger Road.

## Decision

18.) The Tribunal have not been provided with any detail as to the extent of the consultation and communication that has already taken place. However, from details in the correspondence, there is evidence that there has been some communication as to the proposed works.

19.) The work suggested in the application is of an urgent nature, particularly as it impacts directly on the occupation of 52 Harbinger Road. Given the urgent necessity for this work to be undertaken, which appears to be acknowledged by the Respondents, it would appear to the Tribunal that any added time delays caused by a full consultation process would not be beneficial to the leaseholders in this development. Accordingly, the Tribunal determines that it is reasonable to dispense with the requirements to consult under section 20 of the Landlord and Tenant Act 1985.

20.) In reaching this conclusion the Tribunal is mindful that this decision should not prevent the leaseholders from making any further application in respect of the question as to whether the cost of the works are reasonable incurred, that the works are to a reasonable standard and any question in respect of the liability to pay service charges in respect of these works.

Chairman  
Helen Bowers

21<sup>st</sup> July 2010