

10373



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

Case reference : LON/OOAE/LDC/2014/0124

Property : 104 Brondesbury Villas, London
Nw6 6AD

Applicant : Mr J D Thornton

Representative : None

Respondent : Mr A Akabah

Type of application : To dispense with the requirement
to consult leaseholders

Tribunal members : Ms N. Hawkes
Mr D. Jagger FRICS

Venue : 10 Alfred Place, London WC1E 7LR

Date of decision : 28th October 2014

DECISION

Background

1. The applicant has applied to the Tribunal under S20ZA of the Landlord and Tenant Act 1985 (“the 1985 Act”) for dispensation from the consultation requirements contained in section 20 of the 1985 Act in respect of certain qualifying works to 104 Brondesbury Villas, London, NW6 6AD (“the Property”).
2. The Property comprises a house which has been converted into four flats.
3. This application is made in relation to temporary shoring works designed to prevent the possible structural collapse of the Property as a result of severe subsidence.
4. Directions of the Tribunal were issued on 25th September 2014. Paragraph 7 of the Directions provided:

Immediately on receipt of these Directions the applicant shall send a copy of the application and these Directions and the covering letter from the Tribunal to each leaseholder and chairman/secretary of any recognised or informal residents’ association, and shall place a copy of them and the accompanying letter in the hall/ notice board at the property and shall by 4 pm on 29th September 2014 confirm to the Tribunal that that has been done.

5. By email dated 28th October 2014, the applicant has confirmed that a copy of the application and Directions together with the covering letter from the Tribunal were served by hand on each leaseholder on Tuesday 30th September 2014 and that, in addition, a copy of these documents were placed in the common hallway of the Property. The applicant states that there is no recognised or informal residents’ association.
6. The applicant requested a paper determination and no application has been made on behalf of any of the lessees for an oral hearing. This matter was therefore determined by the Tribunal by way of a paper determination on Tuesday 28th October 2014.
7. The Tribunal did not consider that an inspection of the Property would be of assistance nor would it have been proportionate to the issues in dispute.
8. The applicant has provided the Tribunal with:
 - a. a witness statement dated 6th October 2014 prepared by Jonathon Sanders of Hurfold Salvi Carr Property Management Limited;
 - b. copies of notices of intention to carry out permanent underpinning, damp proofing and associated work to the Property dated 22nd July 2014 which were sent to all

- leaseholders before it was appreciated that temporary shoring was urgently required;
- c. a specification and copy estimates from two contractors;
 - d. an arboricultural report dated 16th March 2014;
 - e. photographs of the temporary shoring works.
9. Mr Sanders states in his witness statement that Ashby Building Surveyors visited the site accompanied by structural engineers in May 2014. It was decided that the Property needed structural repair work and a notice of intention to carry out this work was sent to the lessees on 22nd July 2014. The work could not be immediately undertaken for financial reasons. A re-inspection was carried out in September 2014 by which time the structural subsidence had worsened significantly. The structural engineers then advised that temporary shoring should be carried out immediately and this work has been completed.
10. None of the lessees have filed written representations with the Tribunal or requested an oral hearing.

The Tribunal's determination

11. Section 20 of the 1985 Act provides for the limitation of service charges in the event that statutory consultation requirements are not met. The consultation requirements apply where the works are qualifying works (as is the case in this instance) and only £250 can be recovered from a tenant in respect of such works unless the consultation requirements have either been complied with or dispensed with. The consultation requirements are set out in the Service Charges (Consultation Requirements) (England) Regulations 2003.
12. Section 20ZA of the 1985 Act provides that where an application is made to the Tribunal for a determination to dispense with all or any of the consultation requirements in relation to any qualifying works, the Tribunal may make the determination if satisfied that it is reasonable to dispense with the requirements.
13. Having considered the application, the evidence in support and the lack of any opposition to this application on the part of the lessees, the Tribunal accepts that the work in question was urgently required and determines, pursuant to section 20ZA of the Landlord and Tenant Act 1985, that it is reasonable to dispense with the statutory consultation requirements in respect of the work described in this application.
14. **This decision does not concern the issue of whether any service charge costs will be reasonable or payable.**

Judge Ms N Hawkes

Date 28th October 2014