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

Case reference : **LON/00AW/LDC/2016/0069**

Property : **37 Courtfield Road, London SW7
4DB**

Applicant : **37 Courtfield Road Limited**

Representative : **Chelsea Property Management**

Respondent : **The leaseholders as set out on the
schedule attached to the
Application**

Representative : **Not known**

Type of application : **To dispense with the requirement
to consult lessees (s20ZA Landlord
and Tenant Act 1985)**

Tribunal members : **Tribunal Judge Dutton**

Date of decision : **13th September 2016**

:

DECISION

DECISION

The Tribunal determines that dispensation should be given from all the consultation requirements in respect of the works to investigate a joint building stack and parapet wall at the rear of the Property, shared with 35 Courtfield Road, (defined as the Works below) as required under s20 of the Landlord and Tenant Act 1985 (the Act) for the reasons set out below.

Background

1. The applicant seeks dispensation under section 20ZA of the Act from all/some of the consultation requirements imposed on the landlord by section 20 of the 1985 Act¹.
2. 37 Courtfield Road, London SW7 4DB is a property containing some 9 flats.
3. The application states that *“the party wall; and chimney stack at the rear of 35/37 Courtfield Road is in a bad condition and reportedly unstable. David Puttock (structural engineer) inspected previously however was unable to confirm the state of the brickwork and necessary repairs without scaffolding. No works have been undertaken yet, once agreed we hope to install scaffolding and arrange for David Puttock to attend”*. It is suggested that the cost of the works are somewhere in the region of £13,000. It would appear that negotiations are required with the owners of the neighbouring property at 35 Courtfield Road to determine responsibility for the repairs.
4. The statement goes on to say *“The problem was first brought to the attention of Tim Stevenson overseeing external repair and redecoration in December 2014 whilst inspecting on site and David Puttock was asked to attend shortly after this. As we are unsure of the exact works/value of works to be undertaken we are unable to proceed with the standard section 20 noticing. We would like to proceed with the investigation to ensure the safety of both buildings and also hope that the first tier tribunal will be able to help establish agreement with 35 Courtfield Road for the required works”*
5. Directions were issued on 14th July 2016 and included a questionnaire to be returned by each leaseholder indicating whether they supported the application or objected to same. Two such questionnaires have been returned both indicating that the application has their support There do not appear to have been any further returns of the questionnaire and at the time of my determination there do not appear to have been any objections lodged with the Tribunal.
6. The matter came before me for consideration as a paper determination on 13th September 2016.

¹ See Service Charges (Consultation Requirements) (England) Regulations 2003 (SI2003/1987) Schedule 4

7. Prior to my determination I had available a bundle of papers which included the application, a statement, the directions, a copy of a short report in letter form from David Joseph Consulting and a schedule, source unknown, indicating an estimated cost of £12,971.57 for the works, including repairs. A copy of the lease for flat 2 37 Courtfield Road was on the file.
8. The only issue for me to consider is whether or not it is reasonable to dispense with the statutory consultation requirements in respect of the works. It is not clear to me whether dispensation is being sought not only for in the inspection and report but also for any works found to be required. At his moment in time it would appear that there is still the need to enter into negotiations with the owner of 35 Courtfield Road and therefore some time may elapse before any works can be undertaken. This application does not concern the issue of whether any service charge costs are reasonable or payable.

THE LAW (SEE BELOW)

DECISION

9. I have considered the papers lodged. There is no objection raised by the Respondents, either together or singularly. I can appreciate the need to inspect and for a report to be prepared, probably before any agreement can be struck with the owners of the neighbouring property at 35 Courtfield Road. For that reason, at this time, I limit my dispensation as to consultation under section 20 of the Act to the erection of scaffolding and investigations into the condition of the chimney stack and party wall/parapet and any report flowing from such investigation (the Works).
10. I am satisfied that it is appropriate to dispense with the consultation requirements for the Works. My decision does not affect the right of the Respondents to challenge the costs or the standard of work should they so wish.

Andrew Dutton

Tribunal Judge

Andrew Dutton

13th September 2016

The relevant law

Section 20 of the Act

- (1) Where this section applies to any qualifying works or qualifying long term agreement, the relevant contributions of tenants are limited in accordance with subsection (6) or (7) (or both) unless the consultation requirements have been either—

- (a) complied with in relation to the works or agreement, or
 - (b) dispensed with in relation to the works or agreement by (or on appeal from) a leasehold valuation tribunal.
- (2) In this section “relevant contribution”, in relation to a tenant and any works or agreement, is the amount which he may be required under the terms of his lease to contribute (by the payment of service charges) to relevant costs incurred on carrying out the works or under the agreement.
- (3) This section applies to qualifying works if relevant costs incurred on carrying out the works exceed an appropriate amount.
- (4) The Secretary of State may by regulations provide that this section applies to a qualifying long term agreement—
- (a) if relevant costs incurred under the agreement exceed an appropriate amount, or
 - (b) if relevant costs incurred under the agreement during a period prescribed by the regulations exceed an appropriate amount.
- (5) An appropriate amount is an amount set by regulations made by the Secretary of State; and the regulations may make provision for either or both of the following to be an appropriate amount—
- (a) an amount prescribed by, or determined in accordance with, the regulations, and
 - (b) an amount which results in the relevant contribution of any one or more tenants being an amount prescribed by, or determined in accordance with, the regulations.
- (6) Where an appropriate amount is set by virtue of paragraph (a) of subsection (5), the amount of the relevant costs incurred on carrying out the works or under the agreement which may be taken into account in determining the relevant contributions of tenants is limited to the appropriate amount.
- (7) Where an appropriate amount is set by virtue of paragraph (b) of that subsection, the amount of the relevant contribution of the tenant, or each of the tenants, whose relevant contribution would otherwise exceed the amount prescribed by, or determined in accordance with, the regulations is limited to the amount so prescribed or determined.

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).