

11754



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

Case reference : LON/OOAZ/LDC/2016/0094

Property : 18 Longton Avenue, London SE26
6QZ

Applicant : Southern Land Securities Limited

Representative : Together Property Management
successors to Hamilton King
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 member : Tribunal Judge Dutton

Date of decision : 1st November 2016

: :

DECISION

DECISION

The Tribunal determines that dispensation should be given from all the consultation requirements in respect of the works required to clear and repair a sewage pump at the Property (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. 18 Longton Avenue, London SE26 6QZ is a three storey 1900's property converted, it would seem, into 7 flats.
3. The application states that, typographical errors omitted, "*the pump in the property was reported faulty on 2nd September, contractors attended the same day and advised that a tanker is required to clear out the pump chamber as due to the failure of the pump it had caused the chamber to over flow with sewage and was on the verge of flooding the property with raw sewage.*" An estimate as to the costs had been received from Willow Pumps which contained provisions for works which will take the total cost above the threshold for consultation under the Act.
4. Directions were issued on 16th September 2016 and included a questionnaire to be returned by each leaseholder indicating whether they supported the application or objected to same. No questionnaires have been returned and at the time of my determination there do not appear to have been any objections lodged with the Tribunal.
5. The matter came before me for consideration as a paper determination on 1st November 2016.
6. Prior to my determination I had available a bundle of papers which included the application, the directions, copies of letters sent to the lessees explaining the need for the works which was said to be sent under the provisions of s20 of the Act. A copy of the lease for flat 1 was on the file.
7. 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. This application does not concern the issue of whether any service charge costs are reasonable or payable.

THE LAW (SEE BELOW)

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

DECISION

8. I have considered the papers lodged. There is no objection raised by the Respondents, either together or singularly. There is, in my findings no doubt that the matter needed to be dealt with speedily and indeed the dispensation is sought retrospectively as the works were scheduled to be undertaken on 12th September 2016, only 4 days after the application was made to the tribunal.
9. 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

1st November 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).