



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

Case Reference : LON/00BJ/LDC/2016/0115

Property : Ship House, 35 Battersea Square

Applicant : Southern Land Securities Limited

Representative : Mr C. Fitch, Property Surveyor, of
Together Property Management

Respondent : The 10 long leaseholders listed in
the schedule to the application
form

Representative : No appearance

Type of Application : Application for dispensation under
s.20ZA of the Landlord and Tenant
Act 1985

Tribunal Members : Judge W Hansen (chairman)
Mrs Helen Gyselynck B.Sc, MRICS

**Date and venue of
Hearing** : 7th December 2016 at 10 Alfred
Place, London WC1E 7LR

Date of Decision : 14th December 2016

DECISION

Decision of the Tribunal

- (1) The Tribunal determines that the consultation requirements in relation to the scaffolding works at Ship House, 35 Battersea Square be dispensed with on terms that the costs incurred in relation to this application for dispensation shall not be regarded as relevant costs to be taken into account in determining the amount of any service charge payable by the tenants;
- (2) The Tribunal records that this is not a determination in relation to the reasonableness of the costs of the said works.

The Application

1. By an application dated 21 October 2016 the Applicant seeks a dispensation order under section 20ZA(1) of the Landlord and Tenant Act 1985. We are somewhat sceptical as to whether this application was strictly necessary in the circumstances but we can understand why it was made and we propose to deal with it on its merits.
2. The application relates to scaffolding work at Ship House, 36 Battersea Square (“the Building”) and additional sums amounting to £3,744 spent on an extension of time for the scaffold which had been erected to facilitate works to the roof of the Building.
3. The brief facts are these. The Building had a leaking roof which required urgent repairs. There are 10 flats within the Building. In order to inspect the roof and prepare a specification of works a scaffold was required and was duly erected on or about 8 October 2015. The roof was inspected on 12 October. The specification was received on 20 October. Invitations to tender were sent out to 3 contractors. Ultimately, the lowest price contractor, PMC, quoted £9,050 and returned the priced specification on 6 November, with an estimated duration of works of 3 weeks. However, the last tender was not received until 8 December 2015. Tender analysis was undertaken and the decision was made to appoint PMC. The works started on 27 January 2016 and finished on 7 March. They were inspected on 24 March and the scaffold was taken down on 29 March 2016.

4. The landlord had consulted about the works to the roof generally and the need for scaffolding as part of those works (see page 67). The landlord also consulted about the specific costs of the scaffolding by way of a notice dated 3 August 2015 (page 70). The lowest price quoted for the scaffolding was £4,600 + VAT but this only covered a period of 8 weeks. However, the tender process and then the works took much longer than expected and it was, it is said, uneconomic to take the scaffold down following the inspection in October, only to re-erect it in time for the works to commence in January.
5. The lessees were given the opportunity to respond to and/or object to this application but none have done so. It is therefore unopposed. Nonetheless, we must still consider whether it is reasonable to dispense with the consultation requirements, if indeed there was a need for further consultation in relation to this additional cost.
6. We are entirely satisfied that it is reasonable. No prejudice has been identified by the lessees and we are satisfied there was none. A scaffold was required to inspect the roof and prepare a proper specification of works. The initial cost of the scaffold was the subject of proper consultation. By the time the final tender was received in December 2015, it was too late to start the work before Christmas. The works then started reasonably promptly in the New Year but they took approximately twice as long as anticipated. There is no reason that we are aware of to blame the landlord for that. It may be that PMC were somewhat optimistic about how quickly they could complete the works. The works then needed to be inspected and signed off and this all happened with reasonable despatch.
7. We are entirely satisfied that it would have been uneconomic to take down the scaffold in October and re-erect it in January. The extended period for which the scaffold was required led to a total additional charge of £3,744. It is clear from the initial price and the other quotes for the scaffolding that it would have cost more than this to re-erect a fresh scaffold in January. We note too that a previous Tribunal dispensed with the consultation requirements in relation to the works themselves by a decision dated 12 January 2016.
8. We therefore dispense with the consultation requirements in relation to these works, in particular the requirement to keep the scaffold up until 29 March 2016, and therefore for much longer than the initial anticipated 8-week period, but on terms that the cost of this application is not passed on to the tenants via the service charge.

9. A dispensation on these terms is usual following *Daejan v. Benson* [2013] 1 WLR 854 and Mr Fitch indicated he had no objection to us so ordering.
10. For the avoidance of doubt, this determination relates only to the issue of dispensation and is not a determination in relation to the reasonableness of the costs of the said works.

Name: Judge W Hansen

Date: 14 December 2016