



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

Case Reference	:	LON/00BG/LDC/2019/0093
Property	:	42A Commercial Road London E1 1LN
Applicant	:	Southern Land Securities Limited
Representative	:	Together Property Management
Respondent	:	Mr Laszlo Biro (Leaseholder Flat 1) and Ms Kim Cecily Israel (Leaseholder flat 2)
Representative	:	Not Known
Type of Application	:	An application under section 20ZA of the Landlord and Tenant Act 1985 for dispensation from consultation prior to carrying out works
Tribunal Members	:	Mr I B Holdsworth FRICS MCI Arb
Date and venue of Hearing	:	24th July 2019, 10 Alfred Place, London WC1E 7LR
Date of Decision	:	24th July 2019

DECISION

Decisions of the Tribunal

The Tribunal determines that retrospective dispensation should be given from the consultation requirements in respect of the specific works undertaken to repair the main roof to the building, (defined as the “Roof Works”) at 42A Commercial Road London E1 1LN as required under s.20ZA of the Landlord and Tenant Act 1985 (“the Act”) for the reasons set out below.

The application

1. The Applicant seeks a determination pursuant to s.20ZA of the Landlord and Tenant Act 1985 (“the 1985 Act”) to retrospectively dispense with the statutory consultation requirements associated with carrying out necessary and essential roof repair works, “**the Roof Works**”, to 42A Commercial Road London E1 1LN “**the property**”.
2. An application was received by the First-tier Tribunal dated 10th June 2019 seeking dispensation from the consultation requirements. Directions were issued on the 18th June to the Applicant. These Directions required the Applicant to advise all Respondents of the application and provide them with details of the completed works.
3. The relevant legal provisions are set out in the Appendix to this decision.

The hearing

4. This matter was determined by written submissions. The Applicant submitted a bundle of relevant materials to the Tribunal.
5. No submissions are received from the Respondents.

The background

6. The property which is the subject of this application is a three-storey building with a commercial unit at ground floor with two self-contained flats above. The Tribunal are told it is a mid terraced property built of solid brickwork beneath a flat roof with parapet walls. It was built during the nineteenth century.
7. The Statement of Case prepared by the landlord’s representative Together Property Management (TPM) describes that they were advised by the managing agent of Flat 2 of water ingress to the property in May 2019. The managing agents expressed concern that

the water penetration could impact on the safety of the electrical wiring and pose a health and safety risk to their tenant.

8. TPM instructed two contractors to visit the premises to identify the cause and quote for repair. The Tribunal are told that both contractors reported a failed roof covering as the cause of the water penetration. The contractor repair quotes both exceeded the £250 works cost limit set by the Act before statutory consultation must be carried out.
9. The Statement of Case confirms that due to the concern about the safety of the residents should the repair be delayed a contractor was instructed by TPM to undertake the roof works prior to further consultation.
10. TPM do not provide any details of the contractor reports, quotes received, specification of repairs or the final cost of the works in their submission.
11. The Applicant contends that the repairs were needed urgently for the following reasons:
 - Rainwater was penetrating the second-floor flat 2. This posed a health and safety risk to the building occupiers;
 - Any delay in rectifying the rainwater leak would have led to further damage to the building, particularly flat 2; and
 - The dampness caused by the penetrating water may have led to an electrical fault and consequential damage. Further delay may have increased the probability of more comprehensive and damaging water ingress.
11. Prior to my determination I had available a bundle of papers which included the application, the Directions, a Statement of Case and copy of a specimen lease.
13. 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 Roof Works. **This application does not concern the issue of whether any service charge costs are reasonable or payable.**

The determination

14. I have considered the papers lodged. There is no objection raised by the Respondents, either together or singularly.
15. There was a demonstrated need to carry out the works urgently to prevent penetrating water through the failed roof covering. Also, an early start on the works was likely to mitigate the extent of damage to the building and the eventual remedial works costs.
16. It is for these reasons that I am satisfied it is appropriate to retrospectively dispense with the consultation requirements for the Roof Works. It is noted no competitive quotes, final works specifications or final works costs were submitted with the Application.
17. **It is the Applicant's responsibility to serve a copy of the Tribunal's decision on all Respondent leaseholders listed on the Application.**
18. **My decision does not affect the right of the Respondents to challenge the costs or the standard of work should they so wish.**

Valuer Chairman Ian B Holdsworth

24th July 2019

Appendix of relevant legislation

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).