



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

Case Reference : **LON/00AF/LDC/2020/0014**

Property : **54 High Street
Penge
London SE20 7HB**

Applicant : **Together Property Management
Limited**

Respondents : **Various Leaseholders, see Annexe A**

Type of Application : **Under section 20ZA of the
Landlord and Tenant Act 1985
(‘the Act’) for dispensation from
the consultation requirements in
respect of qualifying works**

Date of Application : **3 January 2020**

Date of Decision : **11 February 2020**

Tribunal : **Mrs A J Rawlence MRICS**

DECISION

© CROWN COPYRIGHT 2020

DETERMINATION

The Tribunal grants dispensation from the consultation requirements contained in section 20 of the Act and the associated Regulations in respect of the qualifying works, the subject of the Application.

Reasons for the Tribunal's determination

Introduction

1. On 3 January 2020 Together Property Management Limited ('the **Applicant**') applied to the Tribunal ('the **Application**') for an order under section 20ZA of the Act dispensing with the consultation requirements contained in section 20 of the Act and associated regulations in respect of 54 High Street, Penge, London SE20 7HB ('the **Property**'). The Respondents are the leaseholders of seven flats at the Property.
2. Section 20ZA (1) of the Act provides as follows:

'(1) Where an application is made to the appropriate tribunal for a determination to dispense with all or any of the consultation requirements in relation to any qualifying works or qualifying long term agreement, the tribunal may make the determination if satisfied that it is reasonable to do so.'
3. The works the subject of the Application, which had been completed at the date of the Application, involved drainage and plumbing works at Flat 2 at the Property. The Applicant stated that the reason for the urgency was that the leaseholder of Flat 2 could not reside at the property. Further details are contained in the paragraphs containing the Applicant's submissions (see below).
4. The Applicant requested a paper track (i.e. on the basis of the written submissions of the parties).
5. Directions were issued by the Tribunal dated 14 January 2020.
6. The Tribunal proceeded to determine the Application without an inspection as photographs had been supplied by the Applicant along with details of a survey of works to be carried out and two tenders.

The relevant lease provisions

7. The Tribunal was provided with a copy of the Lease for Flat 3, 54 High Street, Penge. The Lease is dated 22 December 2009 and is made between A G Larkin and S Larkin (Landlords) and the respective Tenants. In consideration of a premium and the payments of a ground rent and a management charge, the Lease grants the Property to the Tenants for a period of 125 years from 1 January 2009.
8. It is assumed that the remaining leases are similar in all material respects.

9. Paragraph 4 of the Lease states the Landlord's Covenants:

4.3 to observe and perform the obligations on its part contained in the First Schedule and Second Schedule.

10. The First Schedule of the lease defines the Services:

1. To maintain and keep in good and substantial repair and condition and renew or replace when required the Main Structure the Common Parts and any Pipes used in common by the Tenant and other tenants of the Building and which are not expressly made the responsibility of the Tenant

11. The Tenant covenants to pay the service charge which shall mean the amounts properly certified in according with provisions of Second Schedule.

12. The mechanism for the payment of a maintenance charge is also found in the Second Schedule.

The Applicant's submissions

13. The Applicant is responsible for the maintenance of the main structure and any common pipes.

14. On 17 October 2019, the Applicant became aware that the leaseholder of Flat 2, during bathroom renovations, had uncovered a 'hidden' room with drainage pipes that had caused damage to her bathroom.

15. An immediate initial survey was inconclusive and Lewis Berkley inspected the site on 25 October 2019 and subsequently issued their report dated 29 October 2019.

16. It was confirmed that the 'hidden' room was in the demise of Flat 2. However, this room housed a number of PVC and cast iron foul waste pipes as well as surface water pipes servicing the upper and adjacent floors/flat.

17. Furthermore, the surface water pipes drained into an open gully which connected to the same internal drainage chamber as the foul waste.

18. The report went on to detail works required to the pipework, gulley and manhole cover. Two quotations for these works were obtained of which the Leaseholders were duly advised on 8 November 2019 and informed that a retrospective application would be made to the First Tier Tribunal for dispensation from any consultation requirements.

19. The Tribunal notes that the Leaseholder of Flat 2 was in temporary accommodation as the flat had no bathroom. Damage to the water ingress needed to be made good before the bathroom renovations could be completed. Her building insurance had agreed to pay for alternative accommodation but only for a certain time. Additional alternative accommodation incurred would be a service charge item.

20. The report also recommended a complete overhaul and replacement of a flat roof that bounds a neighbouring property/roof. The Tribunal notes that the carrying out of these works is not included in the current application.
21. The Tribunal notes that there have been no representations from any of the Respondents although the Applicant states there were a few queries regarding the work at the time.

The Tribunal's Determination

22. The Tribunal was provided with evidence that the work was urgent to prevent continued water ingress into Flat 2. These works needed to be undertaken prior to the bathroom renovations at Flat 2 being completed and any delay would have led to further alternative accommodation costs being incurred.
23. It is not the concern of the Tribunal, in any case, as to whether the cost was reasonably incurred. The Respondents retain the right to challenge the cost by making an application under section 27A of the Act at a later date. The question before the Tribunal is whether it is reasonable, in the circumstances of the case to dispense with the consultation requirements. The Tribunal therefore determines that it is just and equitable that dispensation is granted from the consultation requirements contained in section 20 of the Act and the associated regulations requested by the Application.

A J Rawlence MRICS – Chairman.

RIGHTS OF APPEAL

1. 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.
2. 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.
3. 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.
4. 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.

Annexe A

Miss McVeigh

Ms Hodol

Ms O'Farrell & Mr Leith

Mrs Ullah

Mr & Mrs Khan

Mr Woodworth

Mr Yurakov