



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

Case Reference : **CHI/45UB/LDC/2014/0030**

Property : **10 Colebrook Road Southwick
Brighton East Sussex BN42 4AL**

Applicant : **Lynedale Development Co**

Representative : **Ms C Kruger of Deacon & Co**

Respondent : **Mr & Mrs O Jibowu (1)
Mr F Hayter (2)**

Representative : **Did not appear and were not
represented**

Type of Application : **S20ZA Landlord and Tenant Act
1985**

Tribunal Members : **Judge F J Silverman Dip Fr LLM
Mr R Wilkey FRICS**

**Date and venue of
Hearing** : **15 August 2014
Brighton**

Date of Decision : **15 August 2014**

DECISION

The Tribunal determines that it will exercise its discretion to dispense with the consultation requirements imposed by s.20 of the Landlord and Tenant Act 1985.

REASONS

1. The Applicant seeks a determination of its application for dispensation from the consultation requirements imposed by s. 20 of the Landlord and Tenant Act 1985.
2. The Application to the Tribunal was made on 11 July 2014.
3. Directions were issued by the Tribunal on 21 July 2014.
4. The Tribunal inspected the property immediately prior to the hearing.
5. The property comprises a substantial late Victorian semi-detached converted house with a more recent two storey extension to the rear, presently divided into two flats, one on the ground and the other on the upper floor of the building. The exterior of the property is in a poor state of decoration and repair and rendering is in a parlous condition needing immediate attention to prevent further deterioration to the structure of the building. The Tribunal noted the poor condition of the external rendering and that a part of the render had fallen close to the front entrance door.
6. A hearing took place in Brighton on 15 August 2014 at which the Applicants were represented by Ms C Kruger of Deacon & Co but neither of the Respondents attended nor was represented at the hearing.
7. The Applicant has a repairing obligation in respect of the structure, exterior and common parts of the premises imposed on it by Clause 4.2 of the lease.

8. The Applicant sought the Tribunal's consent to dispense with the consultation requirements imposed by s20 Landlord and Tenant Act 1985 in respect of the proposed repairs to the render of the building.
9. A s20 notice had been served on both Respondents on 29 April 2013 in relation to repairs and redecoration of the exterior of the property but did not include repairs to the render. The present state of disrepair of the render was discovered when scaffolding was erected to commence the works which are the subject of the s20 notice.
10. The repair works to the render were not covered by the existing s20 notice and therefore the Applicants served a new supplementary s20 notice on both Respondents on 10 July 2014. They are however anxious to proceed with the render repairs as quickly as possible.
11. The repairs which were the subject of the original s20 notice cannot be completed unless the render is in good condition. The Applicants maintain that the present state of disrepair of the render is dangerous, one section having already broken from the wall, thus there is an urgency to the repairs. They also state that carrying out the work now while scaffolding is already in place at the property effects a cost saving to the tenants and minimises the inconvenience caused to neighbours using the shared driveway.
12. The Applicants say that if dispensation is granted their contractor is able to commence the repair work within a short time.
13. The second Respondent, Mr Hayter did not object to the granting of dispensation but expressed the wish to see that 'the quote is competitive'.
14. The first Respondent Mr & Mrs Jibowu had indicated that they wished to attend the hearing and to object to the application for dispensation. They did not however attend and were not represented at the hearing but the Tribunal received and read a copy of an email from Mr Jibowu which had been received by the Tribunal office late on 14 August 2014 in which he asserts that he has already paid money to the Respondent in respect of repairs and that: 'if the Tribunal is satisfied on inspection that there is such urgency as claimed by the Applicant, then it is invited to direct that appropriate adjustments are

made for moneys so received or part thereof in respect of the render works.....the Tribunal is invited to determine the issue on the papers’.

15. The Tribunal is being asked to exercise its discretion under s.20ZA of the Act. The wording of s.20ZA is significant. Subs. (1) provides:

“Where an application is made to a [leasehold valuation] 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 dispense with the requirements* (emphasis added).”

16. The Tribunal understands that the purposes of the consultation requirements is to ensure that leaseholders are given the fullest possible opportunity to make observations about expenditure of money for which they will in part be liable.

17. The Tribunal was provided with a copy of the previous s20 notice, and the current s20 notice in respect of which consultation on the proposed render works is already under way and is satisfied that both Respondents are aware of the nature of the works which the Applicants wish to undertake and of the desirability for them to be carried out simultaneously with the current repair and redecoration programme.

18. The Tribunal was satisfied from its inspection of the property that the render works are sufficiently urgent and necessary to permit them to exercise their discretion in the Applicant’s favour. In view of the fact that a s20 consultation is already in progress for these works the Tribunal did not consider that any prejudice would be caused to either party by allowing the works to proceed immediately.

19. The Tribunal is not able to impose financial conditions on the Applicant as requested by the second Respondent.

20. In these circumstances the Tribunal determines that it is reasonable to exercise its discretion to dispense with the statutory requirements for consultation.

Judge F J Silverman as Chairman

Date 15 August 2014

Note:
Appeals

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application to the First-tier Tribunal at the Regional office which has been dealing with the case.
2. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.
3. If the person wishing to appeal does not comply with the 28-day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28-day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.
4. The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking.