



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

Case Reference : **LON/00BJ/LDC/2014/0031**

Property : **37 Oberstein Road, London SW11
2AE**

Applicant : **London Borough of Wandsworth**

Representative : **None**

Respondents : **The lessees listed in the schedule to
the application**

Representative : **None**

Type of Application : **To dispense with consultation
requirements under s.20ZA of the
Landlord and Tenant Act 1985**

Tribunal Judge : **Ms N Hawkes**

**Venue of Paper
Determination** : **10 Alfred Place, London WC1E 7LR**

Date of Decision : **9th April 2014**

DECISION

Background

1. The applicant, the London Borough of Wandsworth, has applied to the Tribunal under S20ZA of the Landlord and Tenant Act 1985 (“the 1985 Act”) for dispensation from the consultation requirements contained in section 20 of the 1985 Act in respect of certain qualifying works to 37 Oberstein Road, London SW11 2AE (“the Property”).
2. The Property comprises a house which has been converted into three flats. Two of the flats have two bedrooms and the third has one bedroom.
3. The application is dated 26th February 2014 and the respondent lessees are listed in the application. The application is made in relation to works to the roof of the Property.
4. Directions of the Tribunal were issued on 12th March 2014. The applicant requested a paper determination and no application has been made on behalf of any of the respondents for an oral hearing. This matter was therefore determined by the Tribunal by way of a paper determination on Friday 9th April 2014.
5. The Tribunal did not consider that an inspection of the Property would be of assistance nor would it have been proportionate to the issues in dispute.

The Applicant’s case

6. The applicant’s case is as follows. The applicant states that, in early 2014, a report was received of damage to the flat roof of the Property which was causing serious water ingress into the top floor flat (Flat C). The occupier of the top floor flat informed the applicant that water was coming into every room of the flat and that buckets which had been positioned to collect the water required changing on an hourly basis.
7. The applicant arranged for its contractors, F G Keens, to urgently inspect the roof on 3rd January 2014 and to undertake a temporary repair. On 8th January 2014, the applicant wrote to the respondents regarding proposed further urgent works to the roof.
8. In its letters to the respondents of 8th January 2014, applicant described the nature of the proposed work. The applicant went on to state: “There is a significant risk of damage to the property and/or a health and safety risk to the occupiers and visitors if urgent repairs are not carried out immediately.”

9. The applicant also informed the respondents of its view that it would not be practical to undertake the statutory consultation process pursuant to section 20 of the 1985 Act before carrying out the work.
10. Ms Heynes of Flat C and Mr Snelling of Flat B consented in writing to the work being carried out as a matter of urgency without consultation process being followed. No response was received from the lessee of Flat A. The roof repairs were then carried out.

The Respondents' case

11. None of the respondents have filed written representations with the Tribunal or requested an oral hearing. Ms Heynes and Mr Snelling have informed the Tribunal that they support the applicant's application.

The Tribunal's determination

12. Section 20 of the 1985 Act provides for the limitation of service charges in the event that statutory consultation requirements are not met. The consultation requirements apply where the works are qualifying works (as is the case in this instance) and only £250 can be recovered from a tenant in respect of such works unless the consultation requirements have either been complied with or dispensed with. The consultation requirements are set out in the Service Charges (Consultation Requirements) (England) Regulations 2003.
13. Section 20ZA of the 1985 Act provides that where an application is made to the Tribunal for a determination to dispense with all or any of the consultation requirements in relation to any qualifying works, the Tribunal may make the determination if satisfied that it is reasonable to dispense with the requirements.
14. Having considered the application, the evidence in support and the lack of any opposition to this application on the part of the respondents, I accept that the work in question was urgently required and I determine, pursuant to section 20ZA of the Landlord and Tenant Act 1985, that it is reasonable to dispense with the statutory consultation requirements in respect of the works described in application dated 3rd March 2014.
15. **This decision does not concern the issue of whether any service charge costs will be reasonable or payable. s**

Judge: Naomi Hawkes

Date: 9th May 2014