



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

Case Reference : **LON/00BG/LDC/2016/0014**

Property : **2b Ellsworth Street, London E2
0AX**

Applicant : **Boliogold Limited**

Respondents : **Mr E Amaouzandeh**

Type of Application : **Dispensation from consultation
requirements under Landlord and
Tenant Act 1985 section 20ZA**

Tribunal Members : **Judge Richard Percival**

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

Date of Decision : **15 February 2016**

DECISION

Decisions of the tribunal

- (1) The Tribunal pursuant to section 20ZA of the Landlord and Tenant Act 1985 ("the 1985 Act") grants dispensation from the consultation requirements in respect of the works the subject of the application.

Procedural

1. The applicant landlord applies for a dispensation from the consultation requirements in section 20 of the Landlord and Tenant Act 1985 and the regulations thereunder in respect emergency roof works. The application was allocated to the paper track.
2. The Tribunal gave directions on 2 February 2016, which provided for a form to be given to the tenant to allow him to object to the application. The deadline for return of the form and an accompanying statement was 9 February 2016. No form has been received.

The property and the works

3. The property is a two story building, with a dry cleaning business on the ground floor and a single residential flat above. The flat is sub-let by the leaseholder.
4. Some time before December 2015, severe disrepair to a flat roof resulted in a partial collapse of the internal ceiling of the flat. The applicant has undertaken a patch repair of the roof, and now intends to replace the existing roof. In its current state, the original roof poses a threat to both the flat and the commercial occupier.
5. The applicant served a notice of intended works in December 2015 on the leaseholder (and the leaseholder of the commercial premises) and subsequently obtained three quotations for the work. The applicant now seeks dispensation from further consultation requirements.
6. The applicant has accepted an estimate of £15,372 (including VAT) for the replacement of the roof, and has an overall budget for the works of £9,317.32 (which includes the cost of the patch repair, statutory and miscellaneous costs, a contingency sum and a management fee).

Determination

7. The applicant has provided photographs amply demonstrating the poor condition of the flat roof (which is on two levels) and the damage caused inside the flat. Whilst it is not suggested that the patch repair has failed, the applicant is clearly right to be concerned that it may fail

in the near future. Further, the internal repairs to the flat, which must be adversely affecting the tenant, cannot reasonably be undertaken until the full repair has been undertaken. These factors together provide clear evidence of urgency.

8. The directions in this case expressly provided that the absence of objection by the tenant would be taken to indicate agreement with the application. I therefore treat it as uncontested.
9. I remind myself that the sole issue for my determination is whether it is reasonable to dispense with the consultation requirements imposed by section 20 of the 1985 Act. In my judgment, the circumstances outlined above are such that dispensation should be granted.
10. This determination is strictly limited to the consultation question. It remains open to the tenant to challenge the cost of the works or the quality of the workmanship, under section 27A of the 1985 Act.

Name: Judge Richard Percival **Date:** 15 February 2016

Appendix of relevant legislation

Landlord and Tenant Act 1985 (as amended)

Section 20

- (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) the appropriate 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.]

Section 20ZA

- (1) 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.
- (2) In section 20 and this section—
 - “qualifying works” means works on a building or any other premises, and
 - “qualifying long term agreement” means (subject to subsection (3)) an agreement entered into, by or on behalf of the landlord or a superior landlord, for a term of more than twelve months.
- (3) The Secretary of State may by regulations provide that an agreement is not a qualifying long term agreement—
 - (a) if it is an agreement of a description prescribed by the regulations, or
 - (b) in any circumstances so prescribed.
- (4) In section 20 and this section “the consultation requirements” means requirements prescribed by regulations made by the Secretary of State.
- (5) Regulations under subsection (4) may in particular include provision requiring the landlord—
 - (a) to provide details of proposed works or agreements to tenants or the recognised tenants’ association representing them,
 - (b) to obtain estimates for proposed works or agreements,
 - (c) to invite tenants or the recognised tenants’ association to propose the names of persons from whom the landlord should try to obtain other estimates,
 - (d) to have regard to observations made by tenants or the recognised tenants’ association in relation to proposed works or agreements and estimates, and
 - (e) to give reasons in prescribed circumstances for carrying out works or entering into agreements.
- (6) Regulations under section 20 or this section—
 - (a) may make provision generally or only in relation to specific cases, and
 - (b) may make different provision for different purposes.
- (7) Regulations under section 20 or this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.