



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

**Case reference** : **LON/00BJ/LDC/2019/0009**

**Property** : **27 Trinity Crescent, Tooting,  
London SW17 7AG**

**Applicant** : **Southern Land Securities Limited**

**Respondents** : **The leaseholders of the Property as  
per the application**

**Type of application** : **To dispense with the requirement  
to consult leaseholders about  
major works**

**Tribunal members** : **Judge P Korn  
Mr P Roberts Dip Arch, RIBA**

**Date of decision** : **25<sup>th</sup> February 2019**

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**DECISION**

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## **Decision of the tribunal**

The tribunal dispenses unconditionally with the consultation requirements in respect of the qualifying works which are the subject of this application.

## **The application**

1. The Applicant seeks dispensation under section 20ZA of the Landlord and Tenant Act 1985 (“**the 1985 Act**”) from the consultation requirements imposed on the landlord by section 20 of the 1985 Act in relation to certain qualifying works.
2. The Property is a Victorian semi-detached house extended to a second floor and converted into four self-contained flats.
3. The application concerns qualifying works which have already been carried out. The works comprise the erection of scaffolding to facilitate the replacement of slipped and missing tiles to the rear of the Property to prevent further water ingress into Flat D.

## **Paper determination**

4. In its application the Applicant stated that it would be content with a paper determination if the tribunal considered it appropriate. In its directions the tribunal stated that it would deal with the case on the basis of the papers alone (i.e. without an oral hearing) but noted that any party had the right to request an oral hearing. No party has requested an oral hearing and therefore this matter is being dealt with on the papers alone.

## **Applicant’s case**

5. The Applicant was initially contacted on 14<sup>th</sup> November 2018 with reports of water ingress into Flat D, and it responded by instructing contractors KBK Property Services Ltd (“KBK”) to attend and quote. The quotation was received on 27<sup>th</sup> November 2018 and on the same day the Applicant instructed RS Property Services (“RS”) to attend and provide an alternative quote.
6. The quote from RS was received on 19<sup>th</sup> December 2018. Both the KBK and the RS quotes were above the consultation limit but it became apparent to the Applicant, after discussing the options with the leaseholder of Flat D, that the work could not wait.
7. On 20<sup>th</sup> December 2018 the Applicant spoke to RS to find out how quickly they could undertake the work and they said that they could do it in early January 2019. The leaseholder of Flat D asked the Applicant

to go ahead and the Applicant then wrote to all leaseholders to explain the position and advising them of the Applicant's intention to make an application for dispensation. RS were then instructed to proceed with the work.

8. The Applicant has confirmed to the tribunal that it has sent a copy of the tribunal's directions to all leaseholders together with a copy of the completed application for dispensation. It has also confirmed that it has not received any objections to its application from leaseholders.

### **Responses from the Respondents**

9. The leaseholder of Flat A has confirmed in writing that he supports the application and it seems clear from the information provided by the Applicant that the leaseholder of Flat D also supports the application. None of the Respondents has written to the tribunal to oppose the application.

### **The relevant legal provisions**

10. Under Section 20(1) of the 1985 Act, in relation to any qualifying works *"the relevant contributions of tenants are limited ... unless the consultation requirements have been either (a) complied with ... or (b) dispensed with ... by ... the appropriate tribunal"*.
11. Under Section 20ZA(1) of the 1985 Act *"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..., the tribunal may make the determination if satisfied that it is reasonable to dispense with the requirements"*.

### **Tribunal's decision**

12. On the basis of the information provided, we are satisfied that the works needed to be carried out relatively urgently due to the risk of further damage from water ingress and that therefore to carry out the repairs without first going through the statutory consultation process was appropriate in the circumstances. We also note that the cost involved (£930 + VAT) is only just above the consultation threshold, that leaseholders have been given some information and explanation, and that two leaseholders actively support the application whilst the others have not opposed the application.
13. Therefore, we are satisfied that it is reasonable to dispense with the formal consultation requirements in respect of the qualifying works which are the subject of this application. In the absence of any evidence that the Respondents have been prejudiced by the failure to consult, the dispensation is unconditional.

14. For the avoidance of doubt, this determination is confined to the issue of consultation and does not constitute a decision on the reasonableness of the cost of the works.

**Costs**

15. No cost applications have been made.

**Name:** Judge P Korn

**Date:** 25<sup>th</sup> February 2019

**RIGHTS OF APPEAL**

- A. If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber) a written application for permission must be made to the First-tier Tribunal at the regional office dealing with the case.
- B. 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.
- C. If the application is not made within the 28 day time limit, such application must include a request for extension of time and the reason for not complying with the 28 day time limit; the Tribunal will then look at such reason and decide whether to allow the application for permission to appeal to proceed despite not being within the time limit.
- D. 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.