



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

Case Reference : **LON/00AZ/LDC/2019/0166**

Property : **23 Honor Oak Park
London SE23 1DZ**

Applicant : **Guaranteed Investments Limited**

Respondents : **Mr Saverys
Mr Jackson
Ms O'Brien**

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 : **17 September 2019**

Date of Decision : **29 October 2019**

Tribunal: : **Mrs A J Rawlence MRICS**

DECISION

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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 17 September 2019 Guaranteed Investments 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 23 Honor Oak Park, London SE23 1DZ ('the **Property**'). The Respondents are the leaseholders of the three 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 commenced at the date of the Application, involved replacement of 100 year old leaking water mains lead pipe from water meter/stop cock in pavement to internal stopcocks that supply the three flats at the Property and associated works. The Applicant stated that quotations had been obtained in 2019 for the works. However, when works were being carried out to Flat A (outside of this application) the builders needed to carry out the replacement of the water main urgently and could do so at less than the two quotations. 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 25 September 2019.
6. The Tribunal proceeded to determine the Application without an inspection as photographs had been supplied by the Applicant.

The relevant lease provisions

7. The Tribunal was provided with a copy of the Lease for Flat A, 23 Honor Oak Park, London SE23. It is assumed that the remaining leases are similar in all material respects. The Lease is dated 13 June 1994 and is made between Guaranteed Investments Limited (Landlord) and Anita Debra Gleave. In consideration of a premium and the payment of a service charge, the Lease grants the Property to the Tenant for a period of 99 years commencing 25 December 1993.

8. Under Clause 5 of the Lease the Lessor covenants.

(3) “... *The Lessor will at all times maintain repair cleanse and renew when necessary:*

(a) the external and all structural walls roof all structural parts of the foundations stairways rainwater pipes and communal stairways and entrance halls of the Building

(b) the gas and water pipes sewers drains and electric cables and wires under and upon the Building and enjoyed or used by the Lessee in common with the lessees of the other Flats.

9. The 5th Schedule of the Lease restates the items under Clause 3 (a) and (b) – see above.

10. Under Clause 4 (2) The Tenant covenants to contribute and pay a fair proportion of the costs expenses outgoings and matters mentioned in the Fifth Schedule

The Applicant's submissions

11. The Applicant is the freeholder and carries out the management of the Property. In September 2018 he was informed that there was a leak to the water main. A notice of intention for works to be carried out including damp proofing works was issued on 18 September 2018.

12. In July 2019 quotations were sought for the replacement of the water main. However, the builder carrying out remedial works for the owner of Flat A said that he could not proceed without the replacement water main being carried out. As he had opened up the flooring, he stated that he could carry out the works plus an additional run of pipe for £1,200 (including VAT).

13. As the work was required urgently and would save the Lessees £1,375.00 the Applicant instructed him to proceed.

14. The Tribunal notes that there have been no representations from the respondents.

The Tribunal's Determination

15. The Tribunal was provided with convincing evidence that the work was not only urgent but also at a reduced cost to the Lessees.

16. 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.

17. 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.
18. 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.
19. 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.
20. 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.

A J Rawlence MRICS – Chairman.