



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

Case reference : **LON/00BK/LDC/2019/0196**

Property : **87 Sutherland Avenue, London W9
2HG**

Applicant : **87 Sutherland Avenue 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 M Taylor FRICS**

Date of decision : **16th January 2020**

DECISION

Decision of the tribunal

- (1) The tribunal dispenses with the consultation requirements in respect of the qualifying works which are the subject of this application to the extent that they have not already been complied with.
- (2) No cost applications have been made.

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 and/or management company by section 20 of the 1985 Act in relation to certain qualifying works, to the extent that those requirements have not already been complied with. The works have already been carried out.
2. The Property is a converted block comprising 7 flats in total. The application concerns qualifying works to install bracing (noggins) between and in the middle of the joists and additional fixing bolts along the length of the timber joists, with the loose brickwork to be carefully removed and the relevant wall to be reinstated properly mortar-bonded and pointed.
3. The Applicant is the management company under the long leases of the individual flats within the Property.

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 allocated the case to the paper track (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 states that SAABCO were instructed by the leaseholder of Flat 6 to carry out some internal renovation works. In the process of commencing these works they discovered that the support timber joists had become twisted and that some of the brickwork on a supporting wall needed re-bedding.
6. SAABCO reported these concerns, as a result of which the Applicant commissioned Tayross Associates Limited to carry out an urgent structural survey. Tayross recommended installing bracing (noggins)

between and in the middle of the joists and adding additional fixing bolts along the length of the timber joists, with the loose brickwork to be carefully removed and the supporting wall to be reinstated properly mortar-bonded and pointed.

7. The Applicant adds that the above works needed to be carried out urgently in order to provide adequate support to the building and to avoid costly delays to the internal renovation work.
8. Two contractors were approached for quotes, and SAABCO recommended going with the cheaper quote of £7,860. The works were carried out on 15th October 2019. Leaseholders were provided with constant updates in relation to the works.
9. The Applicant has included a copy of Tayross Associates Limited in the bundle of documents supplied to the tribunal. It has also confirmed that it has provided a copy of its application and of the tribunal's directions to all of the Respondents.

Responses from the Respondents

10. None of the Respondents has opposed the application or made any other representations.

The relevant legal provisions

11. 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”*.
12. 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

13. The tribunal notes the Applicant's stated rationale for applying for dispensation. Whilst we do not get a sense from the structural survey report that there was necessarily any imminent danger to residents or of structural collapse, we accept on the basis of the evidence provided that it was in all parties' interests to minimise delay to the works.
14. As regards the steps taken by the Applicant to comply with the consultation requirements to the extent reasonably possible, we note

that it obtained a report from a chartered surveyor and acted on his recommendations, it obtained two quotes and communicated with leaseholders in relation to the works.

15. The Applicant has complied with the tribunal's directions, and – importantly – none of the Respondents has opposed the application. In addition, there is also no evidence before us that any of the Respondents has been prejudiced by the failure to consult fully.
16. Therefore, for the above reasons, 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 to the extent that those requirements have not already been complied with.
17. **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.**

Name: Judge P Korn

Date: 16th January 2020

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.