



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

Case Reference : **LON/00AY/LDC/2020/0042**

Property : **58-80 Truslove Road, London SE27
0QQ**

Applicant : **The Mayor and Burgesses of the
London Borough of Lambeth**

Representative : **Legal services
London Borough of Lambeth**

Respondents : **The leaseholders of 58-80 Truslove
Road. The details of the
leaseholders are appended to the
application**

Representative : **None**

Type of Application : **An application under section 20ZA
of the Landlord and Tenant Act
1985 for dispensation from
consultation prior to carrying out
works**

Tribunal Member : **Mr I B Holdsworth FRICS MCI Arb**

**Date and venue of
Hearing** : **6 May 2020 by Remote Hearing**

Date of Decision : **6 May 2020**

DECISION

Decisions of the Tribunal

This has been a remote hearing on the papers which has been not objected to by the parties. A face to face hearing was not held because all issues could be determined on paper. The documents referred to in this decision are in a submitted bundle of 112 pages, the contents of which are noted.

The Tribunal determines that dispensation should be given from all the consultation requirements in respect of the works to replace the water supply to this property (defined as the “water supply works”) at 58-80 Truslove Road, London SE27 0QQ required under s.20ZA of the Landlord and Tenant Act 1985 (the “Act”) for the reasons set out below. The agreed cost of the water supply works is £38,830.89 inclusive of VAT.

The application

1. The Applicant seeks a determination pursuant to s.20ZA of the Landlord and Tenant Act 1985 (“the 1985 Act”) to dispense with the statutory consultation requirements associated with undertaking essential renewal of the water supply to 58-80 Truslove Road, London SE27 0QQ “**the property**”.
2. An application was received by the First-tier Tribunal dated 2 March 2020 seeking dispensation from the consultation requirements. Directions were issued on the 10 March to the applicant. These Directions required the applicant to advise all respondents of the application and provide them with details of the proposed works.
3. The relevant legal provisions are set out in the Appendix to this decision.

The hearing

4. This matter was determined by written submissions. The applicant submitted a bundle of relevant materials to the Tribunal.
5. No responses were received by Tribunal from the respondents since they were advised of the intention to seek dispensation from the statutory consultation procedure by the managing agents.

The background

6. The property which is the subject of this application is a 1960’s Local Authority built three-storey building with 12 self-contained flats.

7. The tribunal are told the water supply to the property failed on 21 June 2019. The failure was caused by a water leak in the supply pipes that served the building from the street.
8. The leak from the supply pipe resulted in one flat losing its supply, whilst others in the block were affected by reduced pressure and several nearby properties suffered water pooling in their gardens. This application is for retrospective dispensation, as the water supply works are now completed.
9. The applicant approached OCO Ltd, a Contractor engaged on a Long Term Qualifying Agreement to quote for the necessary remedial works after a temporary repair was undertaken. They estimated the cost of relaying the main and connecting to existing supplies as £38,830.89 inclusive of VAT.
10. The applicant commenced a shortened 5 day consultation with the 12 leaseholders on the 12 September, on receipt of the works scope and quotation. The tribunal are told two responses were received during this consultation and these queries were resolved by the applicant after discussions with the parties.
11. The water supply works commenced on the 25 September and are now completed.
12. The applicant does not intend to carry out statutory consultation after undertaking the shortened consultation in September 2019. It acknowledges this consultation does not satisfy the requirements of The Service Charges (Consultation Requirements) (England) Regulations 2003. It now seeks dispensation from these procedures for the completed works through this application.
13. The applicant contends the water supply works were needed urgently to ensure the integrity of the property and nearby properties subject to flooding from the leak, the health and safety of residents, particularly those residents who had lost their water supply.
14. The applicants also argue that the leaseholders suffered no prejudice from the lack of consultation prior to the works.
15. Prior to my determination I had available a Bundle of papers which included the application, the directions and a copy of written representations prepared by the applicant that provided information on the background to the water supply works.
16. A copy of a specimen lease for each flat is supplied. The cost of carrying out works to the property is chargeable under provisions of clause 2(b) of the lease in which the landlord undertakes to maintain

“subject to payment being made by the tenant of the charge.... the sewers gas pipes and water mains.....”

17. The only issue for me to consider is whether or not it is reasonable to dispense with the statutory consultation requirements in respect of the water supply works. **This application does not concern the issue of whether any service charge costs are reasonable or payable.**

The determination

18. I have considered the papers lodged. There is no objection raised by the respondents, either together or singularly.
19. There is a demonstrated need to carry out the works urgently to minimise the risk of significant further damage to the property and reduce the likelihood of harm to the residents, particularly those with only a temporary water supply. I cannot identify any prejudice caused to the respondents by the grant of dispensation from the statutory consultation procedure.
20. It is for these reasons that I am satisfied it is appropriate to dispense with the consultation requirements for the water supply works.
21. **My decision does not affect the right of the respondents to challenge the costs or the standard of work should they so wish.**
22. **In accordance with paragraphs 7 and 8 of the Directions, it is the applicant’s responsibility to serve a copy of the Tribunal’s decision on all respondent leaseholders listed on the Application.**

Valuer Chairman Ian B Holdsworth

6 May 2020

Appendix of relevant legislation

Section 20 of the Act

- (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) a leasehold valuation 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.

Rights of appeal

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the tribunal is required to notify the parties about any right of appeal they may have.

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.

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.

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.

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.

If the tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber)