



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

Case reference : **LON/00AY/LDC/2020/0146P**

Property : **38 Brailsford Road, Brixton,
London, SW2 2TE**

Applicant : **Southern Land Securities Ltd**

Representative : **Together Property Management
Ltd**

Respondents : **Various leaseholders as per the
application**

Type of application : **For the dispensation of some of the
consultation requirements under
s.20 Landlord and Tenant Act 1985**

Tribunal members : **Judge Simon Brilliant
Ms M Krisko FRICS**

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

Date of decision : **09 December 2020**

DECISION

Decision of the Tribunal

The Tribunal determines that those parts of the consultation requirements provided for by s.20 of the Landlord and Tenant Act 1985 ("the Act") which have not been complied with are to be dispensed with.

The background

1. The Applicant seeks a determination pursuant to s.20ZA of the Act for the dispensation of all or any of the consultation requirements provided for by s.20 of the Act. The application is dated 11 September 2020.
2. Directions were given on 08 October 2020.
3. The case has been listed for a paper determination. On 13 October 2020, Ms Parker, the managing agent, emailed the Tribunal that she had sent the application notice and directions to each of the Respondents, and put up these documents in the communal hall way. No request has been made by any of the parties for an oral hearing.
4. The property is an early 20th century mid-terrace residence converted to contain three self-contained flats. The property is constructed of solid brick built over ground and two upper floors with a pitched, slate roof. Windows are white painted timber sash units on the upper floors floor's with UPVC units within the ground floor bay. White UPVC casements are fitted within the dormer to the front plane of the roof and the two dormers within the rear plane. All rainwater goods are of black plastic. The property is bordered to the front and sides of the concrete forecourt by a low brick wall. Access to all flats is via the Communal door at the front of the property.

The hearing

5. The matter was determined by way of a paper hearing which took place remotely on 09 December 2020.

The application

6. I cannot do better than set out the grounds provided by Ms Parker for seeking dispensation in the application:

Scaffolding was erected to undertake repairs to various areas on the roof, that had failed and were causing damp/water ingress into flat 3 below.

Once access to the roof was made, the Velux window, which had been letting water in, was reported to have been beyond repair, as the original wooden frame was rotten.

Whilst scaffolding was in situ it was deemed prudent to replace the old window, with a UPVC one.

7. A notice of intention for the roof repairs was served on 30 April 2020. The Respondents were made aware of the additional works on the 18 August 2020.
8. In the statement of case, the Applicant explains that following a report of damp and some water ingress into flat 3, a building surveyor was appointed

to assess the damage on site. A small specification of works was drawn up, which included various repairs to the roof area above flat 3.

9. A notice of intention was served on 30 April 2020. Once all subsequent notices had expired, works to the roof area above the property started on 03 August 2020. Upon accessing the roof area the contractor made the Applicant aware of the rotten frame around the Velux window, which had been emanating water into flat 3 below.

10. A quotation was obtained for the replacement of this window and the Respondents were made aware of the costs. Scaffolding was in situ, it seemed financially prudent to replace the window to prevent any further water ingress and prevent any additional cost of scaffolding in the future. The Respondents were all made aware of the works required and a decision was made to proceed, based on there being no objections from the Respondents.

11. The Applicant has produced an invoice from the contractor in the sum of £1,276.

12. The only issue for the Tribunal is whether it is reasonable to dispense with the statutory consultation requirements. **This application did not concern the issue of whether any service charge costs will be reasonable or payable.**

Decision of the tribunal

13. s.20 of the Act provides for the limitation of service charges in the event that the statutory consultation requirements are not met. The consultation requirements apply where the works are qualifying works (as in this case) and only £250 can be recovered from a tenant in respect of such works unless the consultation requirements have either been complied with or dispensed with.

14. Dispensation is dealt with by s.20ZA of the Act which provides:-

"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"

15. The Tribunal has no hesitation in saying that that, in the particular circumstances of this case, involving a clear and immediate need to carry out the replacement of the window and the saving of the costs of further scaffolding, it is reasonable to dispense with the consultation requirements in respect of the installation of the new window.

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| Name: | Simon Brilliant | Date: | 09 December 2020 |
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