



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

Case Reference : **LON/00AZ/LDC/2024/0115**

Property : **10 Lanier Road
Hither Green
London SE13 6HU**

Applicant : **Southern Land Securities Ltd**

Representative : **Together Property
Management Ltd. (Agent)**

Respondents : **Ms Verne Wilks
Restoration Property 1 Ltd.**

Representative : **None**

Landlord : **Southern Land Securities Ltd**

Type of Application : **S20ZA of the Landlord and Tenant
Act 1985 - dispensation of
consultation requirements**

Tribunal : **N. Martindale FRICS**

Hearing Centre : **10 Alfred Place London WC1E 7LR**

Date of Decision : **23 July 2024**

DECISION

Decision

1. The Tribunal grants dispensation from the requirements on the applicant to consult all leaseholders under S.20ZA of the Landlord and Tenant Act 1985, in respect of the qualifying works in this application, only. Dispensation is granted on terms, as set out at the conclusion.

Background

2. The applicant landlord through its agent, applied on 16 April 2024 to the Tribunal under S20ZA of the Landlord and Tenant Act 1985 (“the Act”). The application was for the dispensation from all or any of the consultation requirements contained in S20 of the Act.
3. The application related to the failure of the roof above both flats in a converted house originally dating from the 1930’s. It was understood that the landlord is able to recharge costs under the service charge provisions to all leaseholders of the two flats in the Property.

Directions

4. Directions dated 15 May 2024 were issued by Judge M Jones, without an oral hearing. These directed for various actions to be undertaken by the applicant and respondents if any, to reply, within a timetable.
5. The applicant was to send to each potential respondent a copy of the application, a brief statement of the scope of the works, of the cost for which dispensation from consultation was to be sought and of the Directions. The applicant was not however required to confirm back to the Tribunal that this had been done, nor was any deadline given.
6. By 14 June 2024 any respondent who objected to the application was to respond to the landlord, and the Tribunal, the former of which could reply briefly by 28 June 2024. By 12 July 2024 the applicant was to prepare a bundle containing the application form, Directions, sample lease and copies of all correspondence with the Tribunal and between parties, with a statement explaining the reasons for the application, to the active respondent and Tribunal. They were also to send copies of any responses from the leaseholders to the Tribunal or confirm that none were received.
7. In the 7 day period following 22 July 2024 the Tribunal would determine the application based on these written representations. If a party wanted a hearing they should request same of the Tribunal by 12 July 2024. No such request was received by the Tribunal. No responses were received.
8. The Tribunal determined the case on the paper bundle received from the applicant.

Applicant's Case

9. The Property consists of a purpose built former, two storey, mid terraced house from the 1930's, since converted into two self contained flats in Hither Green. Accommodation is said to be arranged with one flat on each of the 2 levels. A sample lease was enclosed confirming that leaseholders could be required by their landlord to make service charge contributions for services and works to common parts.
10. In the application form at box 7 it confirms that these works are to be qualifying works and that they had been started. At Box 8 in reply to the question "*Do you know of any other cases involving either (a) related or similar issues about the management of this property; or (b) the same landlord or tenant or property as in this application ?*" They did not.
11. At box 9 the applicant was content for paper determination and applied for it, marking at box 10, but asked it could be dealt with by '*Standard Track*'. There was no reason for urgency.
12. The application at box '*Grounds for seeking dispensation*', was completed. At 1 "*Erect mobile scaffolding tower. Stripped out tiles from both sides of valley and valley lining. Fit new GRP valley. Cut in tiles to fit new GRP valley. Removed all old guttering. Fitted new pc gutter to front of building. Remove scaffolding and all debris. Total £1300.*"
13. At 2. the applicant described the background. On 11 March 2024, roofing contractors Back Roofing, inspected the roof, following a complaint of water leak inside. Because the quote included use of a scaffold tower it was considered very competitive. The urgency of the repair meant that the landlord instructed the contractor to proceed without carrying out the statutory consultation process. "*All leaseholders were made aware of the works and the costs involved and no objections were received.*" In their statement of case the agent also explained that the works were completed on 5 April 2024. Notes accompanying this showed an email of 19 March 2024 that had been sent to the leaseholders setting out the problem and proposed actions, inviting any response to be made.
14. At 3, the applicant explained: "*The service charge threshold has been exceeded.*"

Respondent's Case

15. The Tribunal did not receive any representations from the leaseholders either in support of or raising any objection, at any time during the application process.

The Law

16. S.18 (1) of the Act provides that a service charge is an amount payable by a tenant of a dwelling as part of or in addition to the rent, which is payable for services, repairs, maintenance, improvements or insurance or landlord's costs of management, and the whole or part of which varies or may vary according to the costs incurred by the landlord. S.20 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.

17. Dispensation is dealt with by S.20 ZA 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.”

18. The consultation requirements for qualifying works under qualifying long term agreements are set out in Schedule 3 of the Service Charges (Consultation Requirements) (England) Regulations 2003 as follows:-

1(1) The landlord shall give notice in writing of his intention to carry out qualifying works –

- (a) to each tenant; and**
- (b) where a recognised tenants' association represents some or all of the tenants, to the association.**

(2) The notice shall –

- (a) describe, in general terms, the works proposed to be carried out or specify the place and hours at which a description of the proposed works may be inspected;**
- (b) state the landlord's reasons for considering it necessary to carry out the proposed works;**
- (c) contain a statement of the total amount of the expenditure estimated by the landlord as likely to be incurred by him on and in connection with the proposed works;**
- (d) invite the making, in writing, of observations in relation to the proposed works or the landlord's estimated expenditure**
- (e) specify-**
 - (i) the address to which such observations may be sent;**

- (ii) that they must be delivered within the relevant period; and**
- (iii) the period on which the relevant period ends.**

2(1) where a notice under paragraph 1 specifies a place and hours for inspection-

- (a) the place and hours so specified must be reasonable; and**
- (b) a description of the proposed works must be available for inspection, free of charge, at that place and during those hours.**

(2) If facilities to enable copies to be taken are not made available at the times at which the description may be inspected, the landlord shall provide to any tenant, on request and free of charge, a copy of the description.

3. Where, within the relevant period, observations are made in relation to the proposed works or the landlord's estimated expenditure by any tenant or the recognised tenants' association, the landlord shall have regard to those observations.

4. Where the landlord receives observations to which (in accordance with paragraph 3) he is required to have regard, he shall, within 21 days of their receipt, by notice in writing to the person by whom the observations were made state his response to the observations.

Decision

- 19. The scheme of the provisions is designed to protect the interests of leaseholders and whether it is reasonable to dispense with any particular requirements in an individual case must be considered in relation to the scheme of the provisions and its purpose.
- 20. The Tribunal must have a cogent reason for dispensing with the consultation requirements, the purpose of which is that leaseholders who may ultimately pay the bill are fully aware of what works are being proposed, the cost thereof and have the opportunity to nominate contractors.
- 21. No representations to the application were received by the Tribunal either within or beyond the relevant submission date for such.
- 22. The applicant essentially complied with the Directions. The Tribunal received no responses from leaseholders directly.

23. If there were costs associated with a prior survey and any associated work carried out prior to this application, (but, not subject to it), these are not covered by this dispensation, because it was not sought.
24. The terms of this dispensation are:
25. This dispensation does not determine what service charges are reasonable and payable by any leaseholder under the lease, as a service charge for these capital works, just the cap on the cost in the paragraph below.
26. A copy of the sole contractor's brief specification, price or other correspondence was supplied to the Tribunal by the applicant.
27. This dispensation does not extend to any other works at the Property other than those named in the application. This is because they do not form part of this application.
- 28. In making its determination of this application, it does not concern the issue of whether any service charge costs are reasonable or indeed payable by the leaseholders. The Tribunal's determination is limited to this application for dispensation of consultation requirements under S20ZA of the Act; in this case, on terms.**

N Martindale FRICS

23 July 2024

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 either party is dissatisfied with this decision, they may apply for permission to appeal to the Upper Tribunal (Lands Chamber) on any point of law arising from this Decision.

Prior to making such an appeal, an application must be made, in writing, to this Tribunal for permission to appeal. Any such application must be made within 28 days of the issue of this decision to the person making the application (regulation 52 (2) of The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rule 2013).

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).