

10443



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

Case Reference : LON/00AW/LDC/2014/0146

Property : 15 ELSHAM ROAD, LONDON W14
8HA

Applicant : 15 ELSHAM ROAD LTD

Representative : RED CARPET (Managing Agents)

Respondent : LAILA AITKEN (FLAT 1)
KARL RISBERG (FLAT 2)
ZOE DOONG VU (FLAT 3)
ARJUN AHLUWALIA (FLAT 4)

Representative : N/A

Type of Application : Dispensation from consultation
requirements

Tribunal Members : Ms L Smith (Tribunal Judge)

Venue of Deliberations : 10 Alfred Place, London WC1E 7LR
Decision on papers

Date of Decision : 24 November 2014

DECISION

Decisions of the tribunal

- (1) The Tribunal pursuant to section 20ZA of the Landlord and Tenant Act 1985 grants dispensation from the consultation requirements in respect of the works the subject of the application.

Procedural

1. The applicant landlord applies for a dispensation from the consultation requirements in section 20 of the Landlord and Tenant Act 1985 and the regulations thereunder in respect of works proposed to rebuild a set of external front entrance steps ("the Works") to a property known as 15 Elsham Road, London W14 8HA ("the Property").
2. The Tribunal gave directions on 6 November 2014, which provided for the Respondent tenants to write to the Tribunal by 20 November, stating whether or not they agreed to dispensation being given and whether they were content for the Tribunal to determine the matter on the papers. The bundle contains e mail communications between the Applicant's representative and the lessees of Flats 1, 3 and 4 of the Property. All have indicated in response to the e mails their support for the application for dispensation. The bundle also contains details of the efforts made by the Applicant's representative to bring the application to the attention of the lessee of flat 2 of the Property. He is not resident at the Property but the only address which the Applicant's representative holds for him is the flat in the Property. Efforts have been made to contact him by e mail and by telephone but he has not responded. During the first telephone call, the Applicant's representative was told that he would call back but he did not do so and further calls went to voicemail and were not returned. The Applicant's representative has endeavoured to contact him via his lender but attempts by them to contact him and to ask him to contact the Applicant's representative have not succeeded.
3. The Tribunal also gave directions for the Applicant to compile a bundle for the Tribunal's use at any hearing and for that to be served on any Respondent who had indicated that they opposed the application by 16 November 2014. The Tribunal has before it a bundle of documents containing:-
 - (1) The application;
 - (2) Applicant's statement of case to which are annexed the correspondence with the tenants, the estimate for the cost of the Works dated 22 October 2014 (in the sum of £450 for temporary works, £350 to clear the existing steps and either £1650 or

£2475 to rebuild the steps depending on the option chosen) and photographs showing the condition of the steps.

4. Since none of the Respondents had objected to the application and had in any event been served with the application, there was no requirement on the Applicant to serve them with any documents under the terms of the directions.

Determination

5. The application provided that the Works were urgent because there is a health and safety risk to users of the Property as the front entrance is the only entrance into the Property and the steps were shored up on a temporary basis since they had collapsed when tiles were removed. There was also water ingress to the basement flat from the area of the steps which was the reason why tiles on the steps were removed in the first place, leading to the discovery that the steps were structurally defective. Temporary works have been carried out to shore up the steps (at a cost of £350). Option 1 of the 2 options provided by the contractor is to be adopted at a cost of £1650.
6. I remind myself that the sole issue for my determination is whether the landlord should be required to carry a full section 20 consultation in respect of the works. In my judgment the urgency of the problem is such that dispensation should be granted.
7. This does not leave the tenants without a remedy. If the cost of the works is excessive or if the quality of the workmanship poor, then it is open to the landlord or the tenants to apply to the Tribunal for a determination of those issues. That, however, would be the subject matter of a separate application.

Name: Ms L Smith

Date: 24 November 2014

Appendix of relevant legislation

Landlord and Tenant Act 1985 (as amended)

Section 20

- (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) the appropriate 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.]

Section 20ZA

- (1) 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.
- (2) In section 20 and this section—
 - “qualifying works” means works on a building or any other premises, and
 - “qualifying long term agreement” means (subject to subsection (3)) an agreement entered into, by or on behalf of the landlord or a superior landlord, for a term of more than twelve months.
- (3) The Secretary of State may by regulations provide that an agreement is not a qualifying long term agreement—
 - (a) if it is an agreement of a description prescribed by the regulations, or
 - (b) in any circumstances so prescribed.
- (4) In section 20 and this section “the consultation requirements” means requirements prescribed by regulations made by the Secretary of State.
- (5) Regulations under subsection (4) may in particular include provision requiring the landlord—
 - (a) to provide details of proposed works or agreements to tenants or the recognised tenants’ association representing them,
 - (b) to obtain estimates for proposed works or agreements,
 - (c) to invite tenants or the recognised tenants’ association to propose the names of persons from whom the landlord should try to obtain other estimates,
 - (d) to have regard to observations made by tenants or the recognised tenants’ association in relation to proposed works or agreements and estimates, and
 - (e) to give reasons in prescribed circumstances for carrying out works or entering into agreements.
- (6) Regulations under section 20 or this section—
 - (a) may make provision generally or only in relation to specific cases, and
 - (b) may make different provision for different purposes.
- (7) Regulations under section 20 or this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.