



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

Case Reference : **LON/OOAZ/LDC/2014/0070**

Property : **11A Faversham Road, Catford,
London SE6 4XE**

Applicant : **Southern Land Securities Limited**

Representative : **Hamilton King Management
Limited (managing agents)**

Respondent : **Mr A N Williams (Flat 1)
Mr H Subranian (Flat 2)**

Representative : **None notified**

Type of Application : **To dispense with the requirement
to consult lessees about major
works**

Tribunal Members : **Jeremy Donegan (Tribunal Judge)**

**Date and venue of
Paper Determination** : **24 June 2014
10 Alfred Place, London WC1E 7LR**

Date of Decision : **24 June 2014**

DECISION

Decisions of the tribunal

- (1) The tribunal grants dispensation under section 20ZA of the Landlord and Tenant Act 1985 (the 1985 Act) in respect of the Initial Works and the Proposed Works to the flat roof at 11A Faversham Road, Catford, London SE6 4XE (the Property). No terms are imposed on the grant of dispensation.

The application

1. The tribunal received an application for dispensation under section 20ZA of the 1985 Act on 29 May 2014.
2. Directions were issued on 30 May 2014. These provided that the case be allocated to the paper track, to be determined upon the basis of written representations. Initially both Respondents objected to this allocation and requested an oral hearing. Those objections were withdrawn in a letter to the tribunal dated 12 June 2014. Enclosed with that letter were amended, signed forms from the Respondents in which they consented to the application. The paper determination took place on 24 June 2014.
3. The relevant legal provisions are set out in the Appendix to this decision.

The background

4. The Property is a two-storey, converted, terraced house containing two flats. The Applicant is the freeholder of the Property and the Respondents are the leaseholders of the two flats. The managing agents are Hamilton King Management Limited (HKML).
5. The grounds for seeking dispensation were set out in a statement of case and supporting bundle of documents, produced by HKML. These can be summarised as follows:

(a) On 22 April 2014, HKML received a complaint of leaks from the flat roof at the Property into Flat 1. Temporary repairs were undertaken by Philips Maintenance Contractors (London & Kent) Limited (PMCL) at a cost of £180. PMCL also provided a quote for replacing the roof in the total sum of £1,2,660 plus VAT, dated 23 April 2014, which included a provisional sum of £3,000 plus VAT.

(b) Further leaks into Flat 1 were reported to HKML on 29 April 2014. These were investigated by alternative contractors, Avalon 3 Limited (A3L), who advised that the temporary repairs had failed. Temporary tarpaulin was laid on the roof to make it watertight.

(c) HKML instructed building surveyors, Angell Thompson & Partners Limited (ATPL) to investigate the problem on 01 May 2014. HKML subsequently received further complaints of leaks to Flat 1 and instructed A3L to revisit the Property.

(d) On 07 May 2014, A3L advised HKML that the roof needed to be removed, as it was potentially dangerous. HKML instructed A3L to make the roof watertight. A3L then laid a full tarpaulin along the entire length of the roof. A3L's fees for their initial work, as detailed in an invoice dated 09 May 2014, amounted to £405 plus VAT.

(e) HKML also arranged a site inspection that was attended by A3L and ATPL on 08 May 2014. During that inspection, ATPL confirmed that urgent works were required to the roof. On 09 May 2013, A3L undertook the urgent works, which consisted of stripping back the stones and all timber from the roof, checking the rafters, correcting the roof fall to allow escape of water and supplying and laying 18mm WBP ply board to the entire roof area (the Initial Works). The total cost of the Initial Works, as detailed in a further invoice dated 09 May 2014, was £3,825 plus VAT (total £4,590).

(f) On 22 May 2014, HKML served Notices of Intention on the Respondents under section 20 of the 1985 Act.

(g) On 23 May 2014, ATPL produced a report that identified the likely causes of the leaks were puncture holes in the roof coverings and an insufficient fall in the roof, from front to back. As a consequence rainwater had percolated into the chipboard decking. The report from ATPL also gave details of the Initial Works and recommended that a 3 layer system for the roof coverings, surrounding upstand walls and battered drip to the gutter end (the Proposed Works).

(h) A3L have provided a quote for the Proposed Works in the sum of £6,000 plus VAT, dated 27 May 2014. The Respondents have obtained an alternative quote from Sandu Building & Restorations Limited (SBRL) in the sum of £3,870 (no VAT). HKML wish to instruct A3L to undertake the Proposed Works as a credit report from Experian states that SBRL are considered to be high risk with guarantees required. Further HKML consider that SBRL's payment terms are unfavourable.

(i) HKML submitted the application for dispensation on 27 May 2014. The Applicants seeks retrospective dispensation for the Initial Works and prospective dispensation for the Proposed Works.

6. The tribunal has determined the application based upon the Applicant's statement of case and bundle, the information set out in the original application form and the completed response forms.

The tribunal's decision

7. The tribunal grants the application for dispensation under section 20ZA of the 1985 Act, in respect of the Initial Works and the Proposed Works. No terms are imposed on this grant of dispensation.

Reasons for the tribunal's decision

8. The Initial Works were clearly urgent, given the repeated water leaks into Flat 1 and the advice received from independent surveyors, ATPL. The Applicant's bundle of documents contained photographs, showing extensive damage to the ceiling in Flat 1 and to the chipboard roof decking. There was no time for the Applicant to consult with the Respondents before undertaking the Initial Works.
9. The Proposed Works are also urgent in that the roof and upstands need to be covered, to avoid damage to the new decking and further leaks. Embarking upon a full consultation exercise is likely to take 3 months or longer and this would delay the Proposed Works until the autumn.
10. Both Respondents have now consented to the application and neither of them have indicated that they will be prejudiced if dispensation is granted. Furthermore, neither of the leaseholders have suggested that any terms should apply to the grant of dispensation.
11. Having regard to the particular facts of this case it is reasonable to dispense with the consultation requirements for both the Initial Works and the Proposed Works. However the tribunal makes no determination on the selection of the contractor to undertake the Proposed Works or the cost of the roof repairs. Nothing in this decision prevents the Respondents from seeking a determination of their liability to contribute to the cost of the Initial Works or the Proposed Works, via their service charges, pursuant to section 27A of the 1985 Act.

Name: Jeremy Donegan

Date: 24 June 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 the appropriate tribunal for a determination to dispense with all of 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.