

10498



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

Case References : **LON/00BE/LDC/2014/0110 and
0112**

Property : **Vesta Court and Hestia House City
Walk 211 Long Lane London SE1
3BP**

Applicant : **Parkbrace Ltd**

Representative : **Ms S O'Connor Property Manager**

Respondent : **Mr & Mrs Traynor (6 Hestia) (1)
Anita Swift (3 Vesta) (2)
Simona Piantieri (2 Vesta) (3)
Priyanka Koul (205 Vesta) (4)
Faisal Karim (108 Vesta) (5)**

Representative : **Mr M Traynor**

Type of Application : **S20ZA Landlord and Tenant Act
1985**

Tribunal Members : **Judge F J Silverman Dip Fr LLM
Mr I D Holdhurst FRICS**

**Date and venue of
Hearing** : **5 November 2014
10 Alfred Place London WC1E 7LR**

Date of Decision : **5 November 2014**

DECISION

The Tribunal determines that it will not exercise its discretion to dispense with the consultation requirements imposed by s.20 of the Landlord and Tenant Act 1985.

REASONS

1. The Applicant landlord seeks a determination of its applications for dispensation from the consultation requirements imposed by s. 20 of the Landlord and Tenant Act 1985.
2. The Applications to the Tribunal were both made on 5 September 2014. The two applications relate to adjacent properties in the common ownership (as to the head leasehold estate) of the Applicant and are conveniently dealt with together.
3. Directions were issued by the Tribunal on 17 September 2014.
4. A hearing took place in London on 5 November 2014 at which the Applicants were represented by Ms S O'Connor of Residential Partners Ltd and the Respondents by Mr M Traynor .
5. The Tribunal did not consider it necessary to inspect the property.
6. The properties comprise two adjacent blocks of flats each containing 60 flats. The buildings were constructed in 2004/5 by Galliard who retain the freehold reversion. The flat roof of both blocks was laid by a sub-contractor and both parties agree that it is in an unsatisfactory condition there having been a number of leaks and water penetration into various flats. Some temporary repairs have been effected to the roofs which the Applicants say are still effective but their survey reports indicate that a successful long term solution can only be achieved if there is complete re-roofing together with some design changes to eradicate the present faults.

7. It is common ground that the Applicant has a repairing obligation in respect of the structure, exterior and common parts of the premises imposed on it by the lease.
8. The Applicant sought the Tribunal's consent to dispense with the consultation requirements imposed by s20 Landlord and Tenant Act 1985 in respect of the proposed repairs to the roofs of the buildings.
9. The Applicants stressed that although the existing temporary repairs were still effective they needed to carry out the main re-roofing as soon as possible because of the approaching winter. They felt that the delay which would be caused by carrying out a s20 notice procedure would be prejudicial to the project which needed to be started as soon as possible to avoid the occurrence of further damage.
10. The Tribunal notes that the Applicant is presently investigating the validity of a warranty for the roof works given by the original sub-contractor to the freeholder .
11. In support of their applications the Applicants supplied the Tribunal with copies of roof condition reports and a survey report all of which recommended re-roofing but none of which indicated that the work was urgent.
12. The Applicant had no estimate of costs for the proposed works.
13. For the Respondents, Mr Traynor objected to the granting of dispensation saying that the Applicant had not produced any evidence of current or recent problems with water ingress and while not disputing that there were problems with the roofs disputed that the work was so urgent that it merited a dispensation with the normal s20 procedures under which the tenants would be given an opportunity to consider the proposals and express their views.
14. The Tribunal is being asked to exercise its discretion under s.20ZA of the Act. The wording of s.20ZA is significant. Subs. (1) 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 (emphasis added)."

15. The Tribunal understands that the purposes of the consultation requirements is to ensure that leaseholders are given the fullest possible opportunity to make observations about expenditure of money for which they will in part be liable.
16. Having considered the submissions made by both parties the Tribunal is not satisfied that the re-roofing works are sufficiently urgent and necessary to permit them to exercise their discretion in the Applicant's favour. The Tribunal does not consider that any significant prejudice would be caused to either party by delaying the works to allow a normal s20 consultation to take place.
17. The Tribunal was particularly concerned that no financial estimates had been supplied by the Applicant and considers that in these circumstances the granting of dispensation to the Applicant would allow them to enter into a contract for works with no upper financial limit or constraint. This would not be in the best interests of the tenants who would bear the ultimate cost of the works.
18. In these circumstances the Tribunal determines that it is not reasonable to exercise its discretion to dispense with the statutory requirements for consultation.

Judge F J Silverman as Chairman
Date 5 November 2014

Note:
Appeals

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application to the First-tier Tribunal at the Regional office which has been dealing with the case.
2. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.

3. If the person wishing to appeal does not comply with the 28-day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28-day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.

4. The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking.