

10863



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

Case Reference : **LON/00BK/LDC/2015/0054**

Property : **33 Hyde Park Square, London W2 2NW**

Applicant : **The Church Commissioners for England**

Representative : **Knight Frank LLP**

Respondents : **The six long lessees of the flats comprising
The property as listed on the application
form**

Representative : **None**

Type of Application : **Section 20ZA Landlord and Tenant Act 1985
– Dispensation with consultation
requirements**

Tribunal Member : **Judge John Hewitt**

**Date and venue of
Hearing** : **29 May 2015
10 Alfred Place, London WC1E 7LR**

Date of Decision : **29 May 2015**

DECISION

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Decision

1. The decision of the tribunal is all of the consultation requirements imposed by section 20 of the Landlord and Tenant Act 1985 (the Act) shall be dispensed with in relation to the qualifying works described in a Specification and Estimate dated 5 June 2014 issued by Masterfix GB Limited (the subject works).
2. The reasons for the decision are set out below.

NB Reference to a number in square brackets '[]' is a reference to the page number of the trial bundle provided to the tribunal.

Background

3. The property was originally constructed as a house and was subsequently adapted to comprise six self-contained flats. The flats have been sold off on long leases. Details of the six long lessees who together comprise the respondents are appended to the application form.
4. The applicant is the landlord. The terms of the leases oblige the landlord to carry out repairs and maintenance to the structure of the property and its common parts. The long lessees are obliged to contribute to the costs incurred by the landlord by way of the payment of a service charge.
5. Section 20 of the Act imposes an obligation on a landlord to carry out a consultation process in relation to qualifying works. The Act imposes consequences in the event of non-compliance.
6. Section 20ZA of the Act empowers the tribunal to make a determination to all or any of the consultation requirements be dispensed with if satisfied that it is reasonable to do so.
7. On 23 April 2015 the tribunal received an application [1] from the applicants managing agents, Knight Frank, pursuant section 20ZA in relation to the subject works.
8. Directions were given on 23 April 2015 [11]. The parties were notified that the tribunal proposed to determine the application without an oral hearing unless a request for an oral hearing was made within seven days. If a request was received the oral hearing was scheduled for 27 May 2015. The tribunal has not received a request for an oral hearing.
9. The tribunal has received a certificate from Knight Frank that it had sent copies of the application form and the directions to each of the respondents. Knight Frank has also stated that in addition it displayed copies of those documents on notice boards within the property and that it has not received any response from any of the respondents.
10. No respondent has filed with the tribunal a reply form mentioned in direction 4.

The subject works

11. The subject works concern repairs to a pathway leading the front door of the property which was defective and which caused water and damp to penetrate the common parts and the basement flat. Given the potential for damage to those parts of the building Knight Frank took the view that repairs should be carried out with some urgency.
12. Advice and competitive estimates were taken from two specialist contractors, Masterfix and C P Cousins. Copies are attached to the applicant's statement of case. The applicant accepted the Masterfix estimate of £2,496.41 in preference to that of C P Cousins in the sum of £3,706.00 and placed a contract with Masterfix. Evidently the works have been carried out.

Dispensation

13. I have determined that dispensation with the need to comply with the consultation requirements in relation to the subject works because the scope of the works (and hence the cost of them) is modest, there were sound reasons for getting on with the works and none of the long lessees has made any objection to this tribunal.
14. I also bear in mind guidance given to the tribunal by the Supreme Court that ordinarily dispensation should be granted in appropriate cases unless lessees can show prejudice which cannot be satisfied by way of conditions or adjustments. In the circumstances of this case I do not consider it appropriate to impose any conditions.
15. I should make it plain that in determining that the consultation requirements be dispensed with in relation to the subject works I make no determination as to the reasonableness of the scope or cost of those works. These are both matters which it will be open to any of the long lessees to challenge in due course if they so wish.

Judge John Hewitt
29 May 2015