



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

Case Reference : LON/00AR/LDC/2016/0112

Property : 111-141 Hamilton Drive, Romford,
Essex, RM3 0UX

Applicant : London Borough of Havering

Representative :

Respondent : Mrs K Plummer (No. 115)
Ms C A Challingsworth (No. 117)
Mrs P Hassan (No.123)
Mr T Wallace (No. 127)

Representative : None

Type of Application : For dispensation of the
consultation requirements under
section 20ZA

Tribunal Members : Judge Samupfonda
Mr Trevor Sennett MA, FCIEH

**Date and venue of
Hearing** : 28 November 2016
10 Alfred Place, London WC1E 7LR

Date of Decision : 28 November 2016

DECISION

The application

1. The Applicant seeks an order pursuant to s.20ZA of the Landlord and Tenant Act 1985 (as amended) (“the Act”) for the dispensation of any or all of the consultation requirements. The Block concerned is described as a two storey purpose built containing 16 flats (“the Block”)
2. The issue in this case is whether the consultation requirements of section 20 of the 1985 Act should be dispensed with and if so on what terms.

The background

3. The application is dated 12 October 2016 and was received on 24 October 2016. Directions were made dated 26 October 2016. In response to the application and directions, the respondent leaseholders of Flats 123 and 115 submitted written representations to the Tribunal. Flat 127 did not oppose the application to dispense and Flat 117 made no observations on the application.

The hearing

4. In accordance with the Directions the matter was determined on the basis of written representations on 28 November 2016.
5. The Tribunal did not consider that an inspection was necessary and neither party requested it.

The issue

6. The only issue before the Tribunal is whether it should grant dispensation from all or any of the consultation requirements contained in section 20 of the 1985 Act and if so on what terms.

The Applicant’s case

7. The Applicant had filed a bundle in accordance with the Directions. In summary the Tribunal was informed that as a result of major leaks in the pipe work to the Block urgent remedial work is required in order to prevent structural issues and damage to the ground floor dwellings in the Block.
8. The tribunal has been provided with copies of the correspondence sent to the leaseholders regarding the leak and the urgent works required.
9. The Tribunal was informed that there were problems in initially identifying the source of the rushing water sounds heard by some

lessees and in obtaining a report from Essex & Suffolk Water who attended to investigate the matter.

10. Essex and Suffolk Water submitted a quote “to supply and install 158 meters of 63mm pipe with 8x32mm branch connections with individual controls” and other work to remedy the leaks. The cost to be incurred is £24,546.22.
11. The Applicant did not carry out any consultation pursuant to section 20 of the Act but did inform the leaseholders via emails. The leaseholders were informed of the quote and that the work was proposed to start on Monday 17 October 2016 by a letter dated 4 October 2016.
12. The lessee of Flat 123 complained to the Applicant expressing dissatisfaction at the time it has taken to resolve the leak and the Applicant responded to the complaint in a letter dated 12 August 2016.
13. **The Respondents’ position**
14. The Directions provided for the Respondents to indicate whether or not they consented to or opposed the application for dispensation and to serve a statement of case. A statement of case was served by the lessees of Flats 123 and 115. The lessees did not oppose the application but invited the Tribunal to dispense with the consultation requirements on terms on the grounds that there was a delay in remedying the leaks. Flat 115 queried whether the cost to be incurred was reasonable, whether the Applicant will be making an insurance claim and whether leaseholders are liable under the terms of the lease to contribute towards the cost. Although there is email correspondence between the Applicant and the lessee of Flat 117, there is no response to the application from her. Flat 127 did not oppose the application.

The Tribunal’s decision

15. The Tribunal determines that it is reasonable to make an order for dispensation under section 20ZA of the Act, dispensing with all of the consultation requirements in relation to the works outlined in the quote from Essex & Suffolk Water dated 22 September 2016.

Reasons for the Tribunal’s decision

16. The Tribunal has the jurisdiction to grant dispensation under section 20ZA of the 1985 Act “*if satisfied that it is reasonable to dispense with the requirements*”.

17. In making its decision the Tribunal had regard to the fact that the works were considered to be urgently required to deal with water leaking from pipes as identified by the Essex & Suffolk Water quotation.
18. No objections to the application were received and no applications were made for an oral hearing. The Tribunal considered the application to dispense on terms for the reasons outlined by the lessees. The Applicant acknowledged that there was a delay because the complaint of a leak was made in July, a contractor attended and suspected that the leak was the mains water pipes. This was referred to Thames Water in error instead of Essex & Suffolk who worked to their own timescale. There was insufficient evidence before the Tribunal from which it could determine what prejudice if any the delay had caused the leaseholders. However, the Tribunal observed that should the leaseholders be able to demonstrate to the Applicant that they had suffered prejudice in some way; the Tribunal would encourage the Applicant to consider the application positively. The Tribunal does not have jurisdiction to consider whether the cost to be incurred should be reimbursed by the Applicant making an insurance claim. The Tribunal considered the terms of the leases and concluded that the leaseholders are liable to contribute towards the cost of the work. Given the circumstances, the Tribunal did not consider that the Respondents would be prejudiced by the grant of dispensation.
19. The Tribunal would stress that it is not making any assessment of the reasonableness of the charges and a challenge to those charges may be raised pursuant to section 27A of the 1985 Act in the future.

Name: Judge Samupfonda

Date: 28 November 2016