

10164



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

Case reference : **LON/00AE/LDC/2014/0093**

Property : **The Brondesbury Arms,
Canterbury Road, NW6 5SR**

Applicant : **Southern Land Securities Limited**

Representative : **Hamilton King Management Ltd**

Respondent : **14 lessees as per the application**

Representative : **None**

Type of application : **To dispense with the requirement
to consult lessees about major
works/ a long-term agreement**

Tribunal member : **Mr L Rahman (Barrister)**

**Date and venue of
hearing** : **18.8.14 at 10 Alfred Place, London
WC1E 7LR**

Date of decision : **18.8.14**

DECISION

Decisions of the Tribunal

- (1) The Tribunal determines it is reasonable to dispense with the relevant consultation requirements.

The application

1. An application has been made under s.20ZA of the Landlord and Tenant Act 1985 ("the 1985 Act") for a determination that all or any of the consultation requirements in relation to works to be undertaken by the Applicant may be dispensed with if the Tribunal was satisfied it was reasonable to dispense with such requirements.
2. The Applicant confirmed it was happy for the application to be dealt with on paper if the Tribunal thought it appropriate. There was a Pre Trial Review on 19.6.14. The Tribunal considered that if none of the Respondents requested an oral hearing then it would be appropriate for the application to be dealt with in this manner (without a hearing). None of the parties requested an oral hearing so the matter was listed to be dealt with on paper.

The background

3. The property which is the subject of this application is a mid Victorian brick built Public House converted into 14 self contained flats constructed over ground and two floors with a slate tiled Mansard roof. The property also has a basement accommodating two flats.
4. On 1.4.14 the Applicant received a report of water ingress into flat 8. Contractors attended on 7.4.14 and located the leak to be from a leaking extractor fan pipe and a repair was carried out and the hole in the ceiling temporarily boarded up. By May 2014 the insurers had accepted the claim for the water damage to the flat. Due to the height of the building scaffolding was necessary to complete the works. The best option was to wait for the planned major works to start as scaffolding was required for the major works. The go ahead for the major works was received on 13.5.14 and the major works was scheduled to start on 20.5.14. Scaffolding that could be erected without a pavement licence was erected on 20.5.14. However, the scaffolding to tackle the work concerning the water ingress into flat 8 could only be erected on 26.6.14 after the necessary permission was granted on 16.6.14.
5. A first site visit was carried out on 26.6.14 and an appointment was made with flat 8 to carry out investigations. After access was denied on 3.7.14 a further appointment was arranged for 7.7.14. The surveyor identified the problem and carried out temporary repairs to the area. The applicant waited to see if the problem had been resolved before carrying out

permanent repairs. By 19.7.14, after substantial rain over a number of days, the applicant was informed the leak was on going.

6. A further report was prepared by the surveyor on 22.7.14.
7. The Applicant issued section 20 Notices to all the lessees on 22.7.14.
8. The Applicant made its application to the tribunal on 22.7.14.
9. The works ("the Works") for which the Applicant sought a dispensation of the consultation requirements were as follows:
 - (i) Remove asphalt and board to flat roof, approximately 1m strip for 8m.
 - (ii) Replace ply deck flat roof where water affected, in WPB ply, replace asphalt over 1m by 8m.
 - (iii) Replace lead apron flashing along length 8m, increase depth to 200mm strip in code 4 lead, joints lapped by 200mm, and welded.
 - (iv) Remove top two course of slate and re-slate 8m length.
 - (v) Re-felt and baton and slate exposed section of Mansard for this investigation, approximately 3m squared.
 - (vi) Allow for scaffold adaptation along 8m length.
 - (vii) In the meantime junction at flat roof to Mansard will be temporary weathered with fixed sheets.
10. The Respondents would each be responsible for the proportion required under the terms of their leases.

The Applicant's case

11. The Applicant states due to the urgent nature of the repairs it wants to dispense with the consultation requirements so that work can proceed immediately. Attempts have been made to carry out temporary repairs which have improved the leak slightly, but the flat continues to suffer with significant water ingress every time it rains. Scaffolding is already on site for another job and would prevent the lessees incurring an extra charge for scaffolding, which would be needed to complete the necessary works, other than the extra cost for extending the scaffold to remedy the leak.

The Respondent's case

12. Three of the Respondents (flats 2, 3, and 7) sent letters supporting the application and the Tribunal received no objections from any of the other Respondents.

The Tribunal's decision

13. The Tribunal can only make a determination to dispense with the consultation procedure if it is satisfied that it is reasonable to do so. The purpose of the procedure under s.20 of the 1985 Act is to ensure that the long leaseholders do not suffer any prejudice when they are asked to pay for works that cost in excess of £250 per flat. The legislation recognises that there may be instances of urgency where the lengthy consultation process, designed to give the long leaseholders full information about the works and to enable them to make comments and propose a contractor to be asked to provide a quote, cannot be followed and that is the reason for the dispensation provisions under s.20ZA of the 1985 Act.
14. This is an unopposed application. The application is supported by three of the Respondents. The Applicant has attempted to comply with as much of the formal consultation requirements as possible. The Tribunal finds the work is of an urgent nature. Delaying the work would cause further significant damage and increase the overall cost as there would be the need to erect scaffolding, which is already in situ.
15. For the reasons given, the Tribunal is satisfied it is reasonable to dispense with the relevant consultation requirements contained in s.20 of the 1984 Act.
16. The dispensation of any or all of the requirements of s.20 of the 1985 Act does not indicate that the cost itself is reasonable or that the work / service is of a reasonable standard. The Respondents may, if they wish, make a subsequent application under s.27A of the 1985 Act, challenging either the need or quality of such works, the recoverability of the cost under the lease, or the level of the cost.

Chairman: L Rahman

Date: 18.8.14