

9583



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

**Case Reference** : LON/OOAG/LDC/2013/0131

**Property** : Flats at Camden Island, 106 - 110  
Kentish Town Road, London NW1  
9PX

**Applicant** : Sackville UK Property Select II (GP)  
and Sackville UK Property Select II  
Nominee (1) Limited

**Representative** : Workman LLP (managing agents)

**Respondents** : Fourteen leaseholders at the  
subject premises

**Representative** : None

**Type of Application** : Application for an order dispensing  
with the statutory consultation  
requirements made under section  
20ZA Landlord and Tenant Act 1985  
(the 'Act')

**Tribunal Members** : Professor James Driscoll, solicitor,  
(Tribunal Judge) and Mr Chris  
Gowman BSc MCIEH (Tribunal  
Member)

**Date and venue of  
Hearing** : On the 14 January 2014 the  
Tribunal considered the application  
on the basis of the papers filed  
neither party having sought an oral  
hearing

**Date of Decision** : 14 January 2014

## **The decisions summarised**

1. Under our powers in section 20ZA of the Act the statutory consultation requirements in section 20 of the Act (and in the regulations made under that provision) are dispensed with. We are satisfied that it is reasonable to do so in the circumstances outlined by the landlord's managing agents.

## **Background**

2. The applicants are the owners of the premises and landlords under various residential and commercial leases. These are mixed-use premises with commercial units occupying the basement and the first four floors and fourteen residential flats all held on long leases on the fifth and the sixth floors.

## **The application**

3. The managing agents have applied to this tribunal for an order dispensing with the statutory consultation requirements referred to in paragraph 1 of this decision. Their application was received on 25 November 2013. Directions were given at the pre-trial review held on 28 November 2013. It was directed that the application would be considered during the week starting 13 January 2014 unless either party requested a hearing. No such request having been received the tribunal considered the application by examining the papers filed namely a bundle of documents prepared by the managing agents.

## **Our decision**

4. We considered a statement made by a Ms Vivian Lim who works for the managing agents. She elaborates on the statement she made when she completed the application to the tribunal. The works that are necessary are to the top of the building to repair defects that have emerged. Since September 2013 there has been water ingress into the building following rainfall. This has affected three of the flats (and all of the offices). Some remedial work was undertaken in September 2013 but this failed to stop the water ingress. Accordingly the decision was taken to carry out further works. The bundle of documents included a specification of works which was prepared in October 2013. The leaseholders were notified of the proposed works and a letter was sent to the leaseholders dated 21 November 2013 advising them that an application was to be made to this tribunal.
5. A tender report was prepared in December 2013 advising that a company called AJS Limited had been selected as the contractor as it had submitted the most competitive tender. Three tenders were received. The total construction works amount to £20,482.00 (exclusive of VAT) which together with construction costs and fees would come to a total of £27,189.84 (exclusive of VAT).

6. We were not given details of the service charge contributions payable under the residential leases nor the contribution (if any) to be made by the commercial users.
7. According to Ms Lim's statement the costs of any internal repairs caused by the water ingress will be the subject of a claim under the building insurance.
8. We did not receive any objections from any of the residential leaseholders.
9. As the works were clearly required, the managing agents have taken reasonable steps to keep the leaseholders informed and that they have appointed a contractor following a competitive tendering exercise, we are satisfied that it is reasonable to order that the full statutory consultation requirements may be dispensed with.
10. It is important to note that this order does not concern any issue of whether any service charges will be reasonable or payable and it does not prevent any leaseholder from challenging the charges.
11. A copy of the relevant statutory references appear in the appendix to this decision.

**Professor James Driscoll**  
**Solicitor and Tribunal Judge**

## Appendix of the relevant legislation

### Landlord and Tenant Act 1985

#### Section 20

Limitation of service charges: consultation requirements

(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) a leasehold valuation 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**

Consultation requirements: supplementary

(1)

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.

(2)

In section 20 and this section—

“qualifying works” means works on a building or any other premises, and  
“qualifying long term agreement” means (subject to subsection (3)) an agreement entered into, by or on behalf of the landlord or a superior landlord, for a term of more than twelve months.

(3)

The Secretary of State may by regulations provide that an agreement is not a qualifying long term agreement—

(a)

if it is an agreement of a description prescribed by the regulations, or

(b)

in any circumstances so prescribed.

(4)

In section 20 and this section “the consultation requirements” means requirements prescribed by regulations made by the Secretary of State.

(5)

Regulations under subsection (4) may in particular include provision requiring the landlord—

(a)

to provide details of proposed works or agreements to tenants or the recognised tenants’ association representing them,

(b)

to obtain estimates for proposed works or agreements,

(c)

to invite tenants or the recognised tenants’ association to propose the names of persons from whom the landlord should try to obtain other estimates,

(d)

to have regard to observations made by tenants or the recognised tenants’ association in relation to proposed works or agreements and estimates, and

(e)

to give reasons in prescribed circumstances for carrying out works or entering into agreements.

(6)

Regulations under section 20 or this section—

(a)

may make provision generally or only in relation to specific cases, and

(b)

may make different provision for different purposes.

(7)

Regulations under section 20 or this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.