



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

Case reference : **LON/00AY/LDC/2014/0052**

Property : **81 Shooters Hill Road, London SE3
7HU**

Applicant : **Southern Land Securities Limited**

Representative : **Hamilton King Management**

Respondents : **Mr and Mrs Wilson
Ms Berlini
Mr Meader and Mr Hunter
Mr Burnand**

Representative : **None**

Type of application : **To dispense with the requirement
to consult lessees about major
works**

Tribunal members : **Mr L Rahman (Barrister)
Mr Cairns MCIEH**

**Date and venue of
hearing** : **29.4.14 at 10 Alfred Place, London
WC1E 7LR**

Date of decision : **29.4.14**

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 10.4.14. 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 1900's brick built semi detached four storey property comprising of four flats, one on each level, from the basement to the second floor, with a pitched slate roof (photograph on page 45 of the bundle).
4. The works ("the Works") for which the Applicant sought a dispensation of the consultation requirements were as follows:
 - (i) Removal of the chimney stacks and rebuilding or levelling and capping,
 - (ii) 224 square metres of pointing to the front, side, and rear elevations.
5. The Respondents would each be responsible for the proportion required under the terms of their leases.

The Applicant's case

6. The Applicant states they are currently undertaking major works (external repairs and redecoration) under the supervision of a RICS surveyor, for

which s.20 Notices were served in June 2012. The cost of the contract was £22,890 plus vat.

7. Scaffolding has been erected and access has been gained to the higher levels and it has been discovered that the chimney stacks are leaning to a hazardous degree and should be removed and rebuilt or simply removed and capped. Also, 224 square metres of re-pointing is required to ensure the property is watertight. At the time of the application to the Tribunal (4.4.14), approximately two weeks of hire was left on the scaffolding, after which extra hire charges would apply.
8. The cost of dealing with the chimneys and the re-pointing, if undertaken as part of the current works, would increase the total final cost to approximately £35,447 plus vat.
9. Section 20 Notice of Intention have been served for the chimney and pointing works on 3.4.14. The Respondents were also notified in writing on 24.3.14 when the problem was first discovered.
10. The Applicant seeks dispensation to carry out the relevant works whilst the scaffolding is in situ to save additional future charges and to ensure the property is safe and watertight.

The Respondent's case

11. Three of the Respondents (Mr Meader, Mr Burnand, and Mr Wilson) sent letters supporting the application and the Tribunal received no observations from the fourth Respondent.

The Tribunal's decision

12. 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.
13. The application is supported by three of the four flats. The Applicant has attempted to comply with as much of the formal consultation requirements as possible. It is understandable that the additional matters only came to light after the scaffolding was erected and a closer inspection was carried out. The Tribunal finds the work is of an urgent nature given the potential hazard posed by the chimney stacks, which need to be remedied (whether

rebuilt or taken and capped), and the potential water damage that may result from the defective pointing. Furthermore, delaying the work would increase the overall cost in the long run if the scaffolding had to be dismantled and re-erected.

14. 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.
15. 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: 29.4.14