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

Case Reference : **LON/00AZ/LDC/2014/0057**

Property : **109 Gilmore Road, SE13 5AB**

Applicant : **Paul Ming**

Representative : **Elizabeth Sciarretta**

Respondent : **Sandra Maserova (Flat B)
Catherine Johnson (Flat C)**

Representative : **N/A**

Type of Application : **Dispensation from consultation
requirements**

Tribunal Members : **Judge Richard Percival**

Venue of Deliberations : **10 Alfred Place, London WC1E 7LR**

Date of Decision : **1 June 2015**

DECISION

Decisions of the tribunal

- (1) The Tribunal pursuant to section 20ZA of the Landlord and Tenant Act 1985 grants dispensation from the consultation requirements in respect of the works the subject of the application.

Procedural

1. The applicant landlord applies for a dispensation from the consultation requirements in section 20 of the Landlord and Tenant Act 1985 and the regulations thereunder in respect of the specified works.
2. The Tribunal gave directions on 12 May 2015, which provided for the leaseholders to be able to fill out a questionnaire and otherwise indicate any grounds for opposition to the application. No such questionnaires have been received. However, the Applicant has provided the Tribunal with a bundle of correspondence with the leaseholders. On 26 May 2015, in a letter to the Tribunal, the Applicant states that both leaseholders involved are now in agreement with the need to proceed urgently. The scope of the works concerned is set out below.

The works

3. The property is a four storey building, converted into three flats. Two are held on long leases from the landlord (flats B and C, occupied by the respondents). The third is, the Applicant states, owned by him.
4. In the application, the Applicant states that the work required is to the roof and gutters, to prevent water ingress into both flats B and C. The correspondence confirms that the leaseholders agree on the urgency of this work. The Applicant continues that "a lot of the other work required, needs use of scaffolding and would utilise erected scaffolding not to incur further expense."
5. The landlord entered into discussions with the leaseholders, which included consideration of alternative contractors. It appears from the correspondence that both leaseholders now agree that the works should go ahead immediately. The agreement relates to the schedule of works provided by the Applicant's preferred contractor, Daniel Bicknell, dated 22 May 2015.
6. In a letter dated 26 May 2015, the Applicant's representative relates this agreement, but adds that, on investigation once the scaffolding is in place, it may become apparent that other work is necessary. She expresses a concern that the landlord will be limited to recovering £250 in respect of such works.

Determination

7. In the current case there is an urgent need to carry out the works. It is also appropriate for other necessary, but not so clearly urgent, work to be carried out economically while the scaffolding is in place.
8. I remind myself that the sole issue for my determination is whether the landlord should be required to carry a full section 20 consultation in respect of the works. I note that the landlord has engaged appropriately with the leaseholders, and that substantive discussions and consultation have taken place, albeit not in the formal sense required by section 20.
9. In my judgment, the urgency of the works relating to the leaks is such that dispensation should be granted. It is also reasonable in all the circumstances that the dispensation should extend to
 - (i) all of the works covered by schedule dated 22 May 2015 referred to above; and
 - (ii) such other works as become apparent it is reasonable to undertake once the erection of scaffolding allows for closer inspection of the property.
10. If the costs of the work to which this dispensation applies, or if the quality of the workmanship poor, then it is open to the landlord or the tenants to apply to the Tribunal for a determination of those issues. That, however, would be the subject matter of a separate application.

Name: Judge Richard Percival **Date:** 1 June 2015

Appendix of relevant legislation

Landlord and Tenant Act 1985 (as amended)

Section 20

- (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) the appropriate 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

- (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.