



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

Case reference : LON/00BK/LDC/2015/0053

Property : 2 Bathurst Street, London W2 2SD

Applicant : The Church Commissioners for England

Representative : Knight Frank LLP

Respondent : Mr S C A Maggs (1st floor flat); Ms K Hale (2nd floor flat) and Mr A J Moxon (3rd and 4th floor maisonette)

Representative : Not known

Type of application : To dispense with the requirement to consult lessees (s20ZA Landlord and Tenant Act 1985)

Tribunal members : Tribunal Judge Dutton

Date of decision : 28th May 2015

:

DECISION

DECISION

I determine that dispensation should be given from all or part of the consultation requirements required under s20 of the Landlord and Tenant Act 1985 (the Act) for the reasons set out below.

Background

1. The applicant seeks dispensation under section 20ZA of the Act from all/some of the consultation requirements imposed on the landlord by section 20 of the 1985 Act¹.
2. The application states that the flat roof to the property at 2 Bathurst Street, London W2 2SD was leaking into the top floor of the maisonette causing damage to the property. The works required necessitated the replacement of the roof covering. Two prices were obtained from Masterfix and N-Compass, details of which were provided in the Applicants bundle lodged prior to this paper determination. The contract was awarded to N-Compass as although their quote was higher (£3,175 as against £2,430.45) it is said that better quality materials were to be used, that works could be commenced immediately and they provided a 15 year guarantee.
3. No Respondent objected to the application
4. The only issue for me to consider is whether or not it is reasonable to dispense with the statutory consultation requirements. This application does not concern the issue of whether any service charge costs are reasonable or payable.

THE LAW (SEE BELOW)

DECISION

5. I have considered the papers lodged by the Applicant and the directions issued by this Tribunal on 23rd April 2015. There is no objection raised by the Respondents, either together or singularly. It seems clear from the papers that these works were required urgently. The explanation contained in the application states that *“water was leaking down into the 3rd and 4th Floor Maisonette causing damage to their flat and therefore this required quick action to avoid any significant damage to the property. We believe that this was cause enough to dispense with the Section 20 consultation requirements which would have delayed repairs by several months and caused additional damage to the lessee’s property”*.
6. The application indicates that discussions were held with the lessees. The specimen lease included with the Application indicates it is the Applicant’s responsibility to maintain and repair the roof. I am satisfied that it is appropriate to dispense with the consultation requirements in this case. My

¹ See Service Charges (Consultation Requirements) (England) Regulations 2003 (SI2003/1987) Schedule 4

decision does not affect the right of the Respondents to challenge the costs or the standard of work should they so wish.

Tribunal Judge

Andrew Dutton

28th May 2015

The relevant law

Section 20 of the Act

- (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.