



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

Case reference : **LON/00AG/LDC/2016/0002**

Property : **161 – 170 Shaftesbury Avenue,
London WC2H 8JB**

Applicant : **Rossmoregate PLC**

Respondents : **Various leaseholders as per the
application**

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

Tribunal members : **Judge P Korn
Mr A Lewicki FRICS**

Date of decision : **2nd February 2016**

DECISION

Decision of the tribunal

- (1) The tribunal dispenses with those of the consultation requirements not complied with by the Applicant in respect of the qualifying works which are the subject of this application.
- (2) No cost applications have been made.

The application

1. The Applicant seeks dispensation under section 20ZA of the Landlord and Tenant Act 1985 (“**the 1985 Act**”) from the consultation requirements imposed on the landlord by section 20 of the 1985 Act in relation to certain qualifying works.
2. The qualifying works which are the subject of this application comprise the clearing and repairing of a section of box guttering. As at the date of the application the works had not been carried out.

Paper determination

3. In its application the Applicant stated that it would be content with a paper determination if the tribunal considered it appropriate. In its directions dated 8th January 2016 the tribunal stated that the matter would proceed as a paper determination (i.e. without an oral hearing) unless any party requested an oral hearing. No party has requested an oral hearing and therefore this matter is being dealt with by way of paper determination.

Applicant’s case

4. The Applicant states that the works are urgently required because the problem is causing a leak in some of the flats and that this is affecting the building structure and residents’ living environment.
5. The tenant of Flat 4 has involved the Council’s environmental health department in the matter, and on 19th January 2016 the Council served an abatement notice and schedule of works on the Applicant requiring it to abate the nuisance arising from penetrating damp affecting the front kitchen and living room of Flat 4. Either as a result of receiving this notice or because the leaks had got progressively worse (the timing is unclear) the Applicant’s agents arranged for the works to be carried out without further delay.
6. Previously, a Notice of Intention was issued to all leaseholders, and the Applicant’s agents have confirmed to the tribunal in writing that they have also sent to all leaseholders a copy of the items referred to in the

tribunal's directions (including two quotations) and displayed them in the common parts.

Responses from the Respondents

7. The tribunal has received no responses from any of the Respondents.

The relevant legal provisions

8. Under Section 20(1) of the 1985 Act, in relation to any qualifying works *“the relevant contributions of tenants are limited ... unless the consultation requirements have been either (a) complied with ... or (b) dispensed with ... by ... the appropriate tribunal”*.
9. Under Section 20ZA(1) of the 1985 Act *“where an application is made to the appropriate tribunal for a determination to dispense with all or any of the consultation requirements in relation to any qualifying works..., the tribunal may make the determination if satisfied that it is reasonable to dispense with the requirements”*.

Tribunal's decision

10. The tribunal notes the circumstances in which the application for dispensation has been made. Based on the evidence supplied by the Applicant, which has not been contradicted by any of the Respondents, the tribunal concludes that there was a large degree of urgency in relation to the carrying out of these works when the application was made and that the level of urgency has increased since then.
11. None of the Respondents has raised any concerns with the tribunal nor opposed the application for dispensation. The Applicant acted relatively swiftly to address the problem once it became apparent that it was urgent, and it started to comply with the consultation requirements before lodging its application for dispensation by serving on leaseholders a Notice of Intention.
12. Therefore, based on the Applicant's agents' written assurance that they have complied with the tribunal's directions by sending to all leaseholders a copy of the items referred to in those directions and displaying them in the common parts, we are satisfied that it is reasonable to dispense with those of the consultation requirements not complied with by the Applicant in respect of the qualifying works which are the subject of this application.
13. For the avoidance of doubt, this determination is confined to the issue of consultation and does not constitute a decision on the reasonableness of the cost of the works.

Name: Judge P Korn

Date: 2nd February 2016