

11612



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

Case Reference : **LON/00BB/LDC/2016/0090**

Property : **Flats 1 to 4, 837A Romford Road,
Manor Park, London E12 5JY**

Applicant : **Mandeep Kaur Sohal, represented
by Lornik Property Services Ltd**

Respondents : **Abdul Azad and Ashrafi Azad
Toyin Fausat Alieru
Ayman Girgis
Savitri Panwar**

Type of Application : **Dispensation from consultation
requirements under Landlord and
Tenant Act 1985 section 20ZA**

Tribunal Members : **Judge Richard Percival
Chris Gowman MCIEH**

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

Date of Decision : **28 September 2016**

DECISION

Decisions of the tribunal

- (1) The Tribunal pursuant to section 20ZA of the Landlord and Tenant Act 1985 (“the 1985 Act”) 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 works to comply with an enforcement notice issued by the London Borough of Newham under section 215 of the Town and Country Planning Act 1990.
2. The Tribunal gave directions on 6 September 2016, which provided for any tenant who objected to the application to so indicate on a form provided for the purpose, which were sent to each respondent. No form has been received by the deadline of 12 September 2016.

The property and the works

3. The property is a three story building containing four flats above retail premises on the ground floor.
4. On 18 March 2016, the London Borough of Newham served an enforcement notice on the property to take effect on 18 April, requiring works which included the sanding and painting of stucco features and window sills. The works were required to be completed by 18 July 2016.
5. The enforcement notice was directed at the leaseholders (the respondents) as well as the applicant.
6. The Applicant has not provided an indication of the likely cost of the works required. However, applying its expertise, the Tribunal is satisfied that the works, which will require the erection of scaffolding, will cost in excess of the £1,000 threshold for the consultation requirement under section 20 of the 1985 Act.

Determination

7. The deadline for the work to be undertaken by the local authority has elapsed. The applicant asserts that the local authority is now threatening to prosecute. We take it that the target of such a prosecution would be the leaseholders as well as the applicant.

8. The application is uncontested. Further, in truth, the timeous completion of the works will be clearly in the interests of the respondents as well as the applicant.
9. We remind ourselves that the sole issue for our determination is whether it is reasonable to dispense with the consultation requirements imposed by section 20 of the 1985 Act. We conclude that, the circumstances outlined above are such that dispensation should be granted.
10. This determination is strictly limited to the consultation question. It remains open to the tenant to challenge the reasonableness of the cost of the works under section 27A of the 1985 Act.

Name: Judge Richard Percival
Mr C Gowman MCIEH

Date: 28 September 2016

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.