



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

**Case Reference** : **LON/00AG/LDC/2017/0020**

**Property** : **Leigh House, 73 South End Road,  
Hampstead, London NW3 2RJ**

**Applicant** : **Southern Securities Ltd**

**Representative** : **Together Property Management**

**Respondents** : **The Lessees listed in the application**

**Representative** :

**Type of Application** : **To dispense with the requirement to  
consult lessees about major works –  
S20ZA Landlord and Tenant Act 1985**

**Tribunal Members** : **P M J Casey MRICS**

**Date and venue of  
Hearing** : **5 April 2017  
10 Alfred Place, London WC1E 7LR**

**Date of Decision** : **28 April 2017**

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**DECISION**

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## **Decision of the tribunal**

- (1) The tribunal determines that it is satisfied that it is reasonable to dispense with all of the consultation requirements of Section 20 of the Landlord and Tenant Act 1985 and the Service Charges (Consultation Requirements) (England) Regulations 2003 (the Regulations) in respect of the additional works referred to in the application.

## **The application**

1. The applicant seeks a determination pursuant to s.20ZA of the Landlord and Tenant Act 1985 (“the Act”) that the consultation requirements of the Act may be dispensed with in respect of certain works at Leigh House, 73 South End Road, Hampstead, London NW3 2RJ (“the property”).
2. The tribunal issued Directions for the case management of the application on 3 March 2017 and allocated it to the standard track with a paper hearing set down for the week commencing 3 April 2017.
3. The application is not opposed by any of the long leaseholders of the flats at the building. The works which form the subject matter of the application have been completed.
4. The applicant has provided the Tribunal with a bundle of documents as required by the Directions and these were read and considered on 5 April 2017.

## **The evidence**

5. In the application, dated 20 February 2017, the property is described as a traditionally constructed town house built in about 1920 on lower ground, ground and two upper floors. It is semi-detached with No 71 Russell House and has been converted into four flats. The property is Grade II listed..
6. The hearing bundle contains an unsigned and undated statement of case from Together Property Management (Together), the freeholder’s managing agents. In it they say that works of external repairs and redecorations which had been subject to full consultation in accordance with S20 of the Act commenced at the property on 29 March 2016. Together had appointed Lewis Berkeley a firm of Chartered Surveyors to arrange the works and a firm called WDS was awarded the contract, their’s having been the lowest of three tenders received. The contract price was £24,688 which together with surveyors fees at 10%, Together’s administration fee of 5% and VAT gave the total sum which was consulted on of £34,217.57.

7. With scaffolding in place a closer inspection of the fabric showed that more work was required than allowed for in the specification. With the contractor on site and scaffolding in place the decision was made to carry out all the required works without delaying to re-consult under S20 as this would have resulted in increased costs particularly in respect of scaffolding. The variations in the contract sum including deletion of the original contingency sum were dealt with by Lewis Berkeley by way of contract instructions copies of which were included in the bundle. The final cost of the contract was £29,975.50 with presumably a pro rata increase in fees and VAT. The dispensation application is in respect of these additional costs over and above the consultation figure.

### **The decision**

8. In the tribunal's experience it is more usually the case than not that the close inspection, particularly of the higher parts of a building the scaffolded access permits, will show that more work is required than initially allowed for on the basis of a ground level survey with occasional ladder access. Provisional cost sums and contingencies can deal with this problem to a certain extent but the cost overrun here is not out of the ordinary. An independent firm of Chartered Surveyors had been appointed in respect of the contract and they approved and authorized all contract variations. It is undoubtedly the case that delaying the works to re-consult in whole or in part would have led to higher costs especially in respect of the scaffolding. The decision to proceed with all the works was in the circumstances an eminently sensible one.
9. None of the leaseholders has opposed the application and there is no evidence any will suffer prejudice if the dispensation sought is granted.
10. In these circumstances the tribunal is satisfied that it is reasonable to grant the dispensation sought from all or any of the consultation requirements of S20 of the Act and the Regulations. This decision is only concerned with dispensation and does not affect the leaseholders' rights to challenge liability to pay a contribution to the cost of the works through the service charge provision of their leases nor to challenge the reasonableness of the quality of the works or the reasonableness of their cost.

**Name:** P M J Casey

**Date:** 28 April 2017