



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

Case Reference : **LON/00AY/LDC/2019/0005**

Property : **201 Victoria Rise, Clapham,
London SW40PE (“The premises”)**

Applicant : **Southern Land Securities Limited
 (“the Landlord”)**

Representative : **Together Property Management
 Limited**

Respondents : **All leaseholders of the premises
 (“the tenants”)**

Representative : **N/A**

Type of Application : **For dispensation from the
 consultation requirements under
 section 20ZA Landlord & Tenant
 Act 1985**

Tribunal Member : **Judge Jim Shepherd
 Mrs Alison Flynn MA MRICS**

Date of Decision : **29th March 2019**

DECISION

The application

1. The applicant through their agent seek an order pursuant to s.20ZA of the Landlord and Tenant Act 1985 (as amended) (“the 1985 Act”) for dispensation from all or part of the consultation requirements imposed on the landlord by section 20 of the 1985 Act¹.
2. The applicant is the freeholder of premises at 201 Victoria Rise, Clapham, London SW40PE (“The premises”). The premises consist of four flats over three floors each individually owned. The Respondents are the residents of the premises.
3. The applicant seeks dispensation for various works relating to the roof to the premises. This includes erecting scaffolding for investigations and various other works described in the application.
4. According to the application water ingress was causing damage to the top floor of the premises. The Applicant was concerned about the approaching winter with the likelihood of more rain and arranged for scaffolding to be erected so that investigations could be carried out. The tenants were written to by email on 17th October 2018 and told of the estimated cost of the scaffolding and that the Applicant would be making an application to the Tribunal for dispensation as a result of concerns about the change in weather. No objections were received from the tenants and KBK were instructed to erect the scaffolding at a cost of £2595 plus VAT.
5. Once the scaffolding was erected by KBK Property Services it was found that a substantial amount of work was required to the roof as detailed in the application at paragraph 1. KBK Property Services provided a further quote for the works on 6th November 2018 of £5800 plus VAT. The leaseholders were again written to by the Applicant via email on 6th November 2018 and told that the Applicant intended to go ahead with the works quoted for. There was no objection from the tenants. KBK were instructed to carry out the works immediately. The works are now complete.
6. The landlord seeks dispensation from the statutory consultation requirements on the basis of urgency. They say that the residents have been both informally consulted.

¹ See **Service Charges (Consultation Requirements) (England) Regulations 2003 (SI2003/1987) Schedule 4, Part 2.**

7. The tribunal did not consider that an inspection of the Building was necessary, nor would it have been proportionate to the issues in dispute.
8. The only issue for the tribunal is whether or not it is reasonable to dispense with the statutory consultation requirements of section 20 of the 1985 Act. **This application does not concern the issue of whether any service charge costs will be reasonable or payable.**

The Tribunal's decision

9. The Tribunal determines that an order from dispensation under section 20ZA of the 1985 Act shall be made dispensing with all of the consultation requirements in relation to the roof works outlined above and as set out in the application notice.

Reasons for the Tribunal's decision

10. The tribunal has the jurisdiction to grant dispensation under section 20ZA of the 1985 Act *“if satisfied that it is reasonable to dispense with the requirements”*.
11. In making its decision the tribunal had regard to the fact that the applicant has sought to carry out some consultation and keep the tenants informed of their intentions. It appears that the tenants have not objected to the works.
12. The tribunal has not received a response from any of the tenants indicating that they oppose this application despite the directions made on 15th January 2019. In any event it is not considered that the lessees have suffered any particular prejudice as a result of the failure to follow the correct consultation procedure (see *Daejan Investments Ltd v Benson* [2013] UKSC 14.) The Tribunal accepts that the landlord's intentions to carry out the works before the winter weather arrived were genuine.
13. The parties should note that this decision does not concern the issue of whether any service charge costs will be reasonable or payable. The tenants have the right to challenge such costs by way of a separate application if they so wish.

Name: Jim Shepherd

Date: 29th March 2019

