

10379



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

Case Reference : LON/00AW/LDC/2014/0130

Property : 97, Earls Court Road, London, W8
6QH

Applicant : 97 Earls Court Road Limited

Representative : London Block Management
Limited

Respondents : Mr B Nisar (Flat 1)
Miss S Keene (Flat 2)
Ms E Fredriksson (Flat 3)
Mr K Desai (Flat 4)
Ms S Ekaterina (Flat 5)
Ms L Berton (Flat 6)
Aiden Henry Limited (Flat 7)

Representative :

Type of Application : To dispense with the statutory
consultation requirements

Tribunal Members : Mrs. H Bowers, MRICS

**Date and venue of
Hearing** : 29th October 2014, 10 Alfred Place,
London WC1E 7LR

Date of Decision : 29th October 2014

DECISION

The Tribunal grants the application for dispensation from further statutory consultation in respect of the subject works.

REASONS

The Application

1. The Applicant seeks a determination pursuant to section 20ZA of the Landlord and Tenant Act 1985 ("the Act") dispensing with statutory consultation in respect of major works.
2. The premises in question comprise a property converted into seven flats situated at 97 Earls Court Road, London, W8 6QH (the subject development).
3. Directions were issued by the Tribunal on 9th October 2014 listing the matter for a paper determination on Wednesday 29th October 2014, unless any party requested a hearing. There has been no such request and therefore the matter has been considered on the papers supplied. Direction 6 required that the Applicant should send a copy of the Directions to each of the leaseholders, to place a copy in the hall/notice board at the block by 14th October 2014 and to confirm these actions with the Tribunal. In an email of 14th October 2014, Sally-Ann Gibbs of London Block Management Ltd, the managing agents, confirmed compliance.
4. The application seeks dispensation of the consultation process for the supply and erection of scaffolding at the property to access the leak to a roof area; to take down a section of brickwork to allow access to a water pipe and remove a section of exterior render and to re-build the dividing wall and re-render.
5. It was explained that there was damp ingress into flat 6 that was caused from a faulty rain water pipe in a restricted area of the building. As a consequence a room within flat 6 (occupied by a child) was unusable and therefore the flat had become uninhabitable. Due to the location of the leak there had been a delay in identifying the cause of the problem and this delay has allowed the problem to deteriorate.
6. There were written submissions on behalf of the Applicant. Dispensation was being sought due to the urgency of the works and that it would be difficult to ascertain the full costs of the work until the investigation and works commenced. Photographs were provided that appear to show a rainwater hopper in a restricted space between two buildings and external areas of damp and deteriorating render.
7. Included with the application was a copy of a Notice of Intention, the first stage of the section 20 consultation process. The Notice of Intention was dated 1st October 2014 and indicated the work to be undertaken. It was further explained why it was considered necessary to undertake the work. There was

a copy of a quotation from Carringtons Building & Civil Engineering Ltd dated 30th September 2014. The quotation was for £4,640.00 plus VAT and a further sum of £2,000 plus VAT for the investigation and repairs to be carried out. There was a further quote from Carringtons dated 13th October 2014 for additional scaffolding costs of £455 plus VAT. It was suggested that these were indicative costs and the full level of costs could only be determined after further investigations and when the works had been carried out.

8. The Directions invited each of the Respondents to indicate whether or not they supported the application. Correspondence was received from the following Respondents indicating their support Ms L Berton (Flat 6); Ms E Fredriksson (Flat 3); Ms E Sizova (Flat 5); Aiden Henry Limited (Flat 7) and Miss S Keene (Flat 2). No correspondence in support or objection was received from the leaseholders of flats 1 and 4.

Determination

9. Section 20ZA (1) of the Act provides:

“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.”

10. The Tribunal has taken into account the decision in *Daejan Investments Ltd v Benson and others* [2013] UKSC 14.

11. There is sufficient evidence before the Tribunal of the necessity to carry out the work urgently, and that it was prudent to contract the works without a full consultation process. The Tribunal is satisfied that delaying the works for such consultation would have been undesirable. No evidence has been put forward of prejudice to the tenants or other grounds on which the Tribunal ought to consider refusing the application or granting it on terms. In deed five of the seven leaseholders are in support of the application.

12. In all the circumstances the Tribunal grants the application for dispensation from statutory consultation in respect of the works, considering it reasonable to do so. For clarity the works are for the supply and erection of scaffolding at the property to access the leak to a roof area; to take down a section of brickwork to allow access to a water pipe and remove a section of exterior render and to re-build the dividing wall and re-render.

13. This decision does not affect the Tribunal’s jurisdiction upon any application to make a determination under section 27A of the Act in respect of the reasonable cost of the work.

Appeal Provisions

14. A person wishing to appeal against this decision must seek permission to do so by making written application to the First-tier Tribunal at the

Regional office that has been dealing with the case

15. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision

16. If the person wishing to appeal does not comply with the 28-day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28-day time limit; the Tribunal will then decide whether to extend time or not to admit the application for permission to appeal

17. The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result that the person is seeking.

Name: H C Bowers

Date: 30th October 2014