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

Case Reference : **LON/00BK/LDC/2013/0103**

Property : **Part Ground Floor, Basement, 1st-
5th Floors Gloucester Mansions
Cambridge Circus, London WC2H
8HD**

Applicant : **Shaftesbury Covent Garden
Limited**

Representative : **Eversheds LLP**

Respondent : **Southern Land Securities Limited**

Representative : **Hamilton King Management
Limited**

Type of Application : **For dispensation of the
consultation requirements under
section 20ZA**

Tribunal Members : **Judge Samupfonda
Mrs Redmond MRICS**

**Date and venue of
Hearing** : **19 November 2013
10 Alfred Place, London WC1E 7LR**

Date of Decision : **19 November 2013**

DECISION

The application

1. The Applicant seeks an order pursuant to s.20ZA of the Landlord and Tenant Act 1985 (as amended) (“the Act”) for the dispensation of any or all of the consultation requirements. The property concerned comprises a mixed use building with commercial on the ground floor and residential on upper levels (“Property”)
2. The issue in this case is whether the consultation requirements of section 20 of the 1985 Act should be dispensed with.

The background

3. The application was received on 8th October 2013. Directions were made dated 10th October 2013. In response to the application, the respondent wrote to the Tribunal on 6th November 2013 but did not address the matters raised in the Directions or the application.

The hearing

4. In accordance with the Directions the matter was determined on the basis of written representations on 19 November 2013.
5. The Tribunal did not consider that an inspection was necessary, nor would it have been proportionate to the issues in dispute.

The issues

6. The only issue before the Tribunal is whether it should grant dispensation from all or any of the consultation requirements contained in section 20 of the 1985 Act.

The Applicant’s case

7. The Applicant had filed a bundle in accordance with the Directions. The Tribunal was informed that whilst the Respondent was carrying out works to the Property, it identified problems with the stonework which were the Applicant’s responsibility under the lease. In response the Applicant carried out an inspection and identified that there were serious concerns with the stone work with a clear risk of harm to the public from loose stonework. A schedule was drawn up which referred to possible further works to chimney stacks and high level gables for which there was no access at the time and included a provisional sum for such works.
8. The Tribunal was informed that the Respondent consented to remedial work being carried out and to the dispensation of the consultation

requirements through its agents Hamilton King by a letter dated 9 February 2012. The letter also confirmed that the Respondent would consent to any application to the Tribunal for dispensation should one be required at a later date.

9. The works were commenced on 16 February 2012 for a 12 week period and completed in May 2012. During the works, additional works were carried out in relation to the chimney stacks and high level gables and these works were identified and discussed in the emails between the parties.
10. The Applicant did not carry out any consultation pursuant to section 20 of the Act but did consult via emails and letters with Hamilton King on behalf of the Respondent.
11. Once the works were completed, the Applicant sought payment from the Respondent. The total costs of the works for which dispensation is sought is £58,679.29. The Respondent has paid £44,724.31 leaving a balance of £13,954.98.

The Respondent's position

12. The Directions provided for the Respondent to indicate whether or not it consented to or opposed the application for dispensation and to serve a statement of case. No such indication was given and a statement of case was not served. However, the Respondent through Hamilton King wrote to the Tribunal in a letter dated 6 November 2013 highlighting the queries that it had raised with the Applicant. It was stated that these anomalies along with the lack of consultation have resulted in non payment of the service charge. In that letter it also query the cost of the scaffolding.

The Tribunal's decision

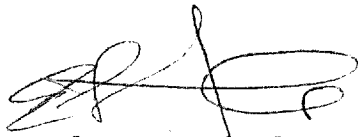
13. The Tribunal determines that an order for dispensation under section 20ZA of the Act shall be made dispensing with all of the consultation requirements in relation to the works outlined above.

Reasons for the Tribunal's decision

14. 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*".
15. In making its decision the Tribunal had regard to the fact that the works were considered by both parties to be urgently required to deal with the loose stonework at the property and the danger emanating

from that. The photographs showed large pieces of fallen stone work and the inspection report dated 22 March 2012 stated that the gable moved with light hand pressure.

16. From the correspondence between the parties it is apparent that the Respondent was fully aware of the remedial work including the additional works that was identified during the course of the remedial work. Furthermore the Respondent through Hamilton King consented to the works and dispensation with the consultation requirements by the letter dated 9 February 2012.
17. The Respondent did not object to the application. Given the circumstances, the Tribunal did not consider that the Respondent would be prejudiced by the grant of dispensation.
18. The Tribunal would stress that it is not making any assessment of the reasonableness of the charges and a challenge to those charges may be raised pursuant to section 27A of the 1985 Act in the future. The Respondent's request for a response from the freeholder as to why the scaffolding costs are so high along with a breakdown of the hire costs are not matters within the Tribunal's jurisdiction.



Name: Judge Samupfonda

Date: 19 November 2013