



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

Case Reference : **LON/00AG/LDC/2014/0036**

Property : **39 Fitzroy Road, London NW1 8TP**

Applicant : **BPT Limited**

Representative : **Blenheims**

Respondents : **The lessees listed in the schedule to the application**

Representative : **None**

Type of Application : **To dispense with consultation requirements under s.20ZA of the Landlord and Tenant Act 1985**

Tribunal Judge : **Ms N Hawkes**

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

Date of Decision : **9th May 2014**

DECISION

Background

1. The applicant, BPT Limited, has applied to the Tribunal under S20ZA of the Landlord and Tenant Act 1985 (“the 1985 Act”) for dispensation from the consultation requirements contained in section 20 of the 1985 Act in respect of certain qualifying works to 39 Fitzroy Road, London, NW1 8TP (“the Property”).
2. The Property comprises a Victorian terrace house which has been converted into four flats. The application is dated 3rd March 2014 and the respondent lessees are listed in an addendum to the application.
3. The application is made in relation to works to the roof of the Property. Consultation under section 20 of the 1985 Act was carried out in respect of repairs to the front and rear main roof slopes. However, the specification of works has since changed.
4. Directions of the Tribunal were issued on 12th March 2014. No application has been made on behalf of any of the parties for an oral hearing. This matter was therefore determined by the Tribunal by way of a paper determination on Friday 9th April 2014.
5. The Tribunal did not consider that an inspection of the Property would be of assistance nor would it have been proportionate to the issues in dispute.

The Applicant’s case

6. The applicant seeks dispensation from the full section 20 consultation procedure in respect of the revised specification of works on the grounds that delaying the repairs would have resulted in additional costs being incurred and in avoidable water damage to internal decorations. The applicant has provided the Tribunal with the following information.
7. Following the receipt of reports of water ingress, the applicant undertook to carry out roof repairs and served a notice of intention to carry out work on the respondents on 2nd May 2013. This notice stated:

The works to be carried out in brief will entail repairs to the slates and flashings serving the front and rear main roof slopes and resealing of the skylight. Should it however be found to be economically more viable to replace the pitched roof once scaffold has been erected this may be the course of action which is taken.

8. The applicant explains that at the time of service of this notice the full scale of the necessary repairs was not known. It was considered

imperative to carry out work to stop the leaks and it was anticipated that any further repairs could be undertaken as part of planned cyclical maintenance works scheduled for 2014/15.

9. No observations were received in response to the notice of 2nd March 2013 and, on 28th June 2013, a statement of estimates in relation to the proposed works was sent to the respondents.
10. No observations were received in response to this notice and, on 1st October 2013, a letter was sent to the respondents informing them that Uxbridge Commercial Services Limited had been selected to undertake the work at a total cost of £6,384 and that the work was scheduled to commence on 7th October 2013.
11. The applicant states that, on 14th October 2013, Uxbridge Commercial Services advised the applicant that, following a full examination of the Property with the use of the scaffold, they recommended a more extensive series of works. A meeting was then held on 17th October 2013 with an independent surveyor, Mr Cliff Kennedy MRICS of CKW Surveyors Limited.
12. Mr Kennedy was of the view that the complete renewal of the roof coverings would provide the Property with better protection from water ingress and that it would prove more economical over the long term. In addition, he advised the applicant that there would be a cost saving in carrying out the repairs using the existing scaffold instead of removing the scaffold and erecting it again.
13. An email from Mr Kennedy dated 18th October 2013 includes the following statement:

To confirm my outline report of the main roof, the slates are in poor condition, with extensive delamination, slipped and cracked slates, and a large quantity of slates held by lead clips, indicating previous repairs and general nail-head failure. The poor condition of the slates will make undertaking effective isolated repairs very difficult, if not unfeasible, and on the basis that the roof is reported to be actively leaking, I would suggest that the best course of action would be complete renewal of the roof coverings. At the same time, the high level rear addition flat roof, currently zinc covered, is in very poor condition and would also benefit from renewal.
14. Mr Kennedy went on to state that he believed that there would be a “significant cost saving” if the existing scaffolding were used for the work.

15. The applicant then obtained revised quotations and, on 19th February 2014, the applicant served a new notice of intention to carry out work on the respondents in respect of the revised specification.
16. The applicant also provided the respondents with copies of two new quotations which had been obtained and informed them that it was the applicant's intention to apply for dispensation from the full section 20 consultation requirements.
17. The works recommenced on 7th March 2014, which was the earliest date that Uxbridge Commercial Services were available, and the revised works were completed by 31st March 2014.
18. The applicant states that no written observations were received from any of the respondents but that the applicant received a telephone call from one of the leaseholders questioning the delay in carrying out the work and an email on behalf of another leaseholder dated 19th February 2014 pressing for the work to be undertaken.
19. Whilst this decision does not concern the issue of whether any service charge costs will be reasonable or payable, I note that the applicant has agreed not to recharge the respondents in respect of eight weeks of scaffold hire.

The Respondents' case

20. None of the respondents have filed written representations with the Tribunal or requested an oral hearing.

The Tribunal's determination

21. Section 20 of the 1985 Act provides for the limitation of service charges in the event that statutory consultation requirements are not met. The consultation requirements apply where the works are qualifying works (as is the case in this instance) and only £250 can be recovered from a tenant in respect of such works unless the consultation requirements have either been complied with or dispensed with. The consultation requirements are set out in the Service Charges (Consultation Requirements) (England) Regulations 2003.
22. Section 20ZA of the 1985 Act provides that where an application is made to the Tribunal for a determination to dispense with all or any of the consultation requirements in relation to any qualifying works, the

Tribunal may make the determination if satisfied that it is reasonable to dispense with the requirements.

23. Having considered the application, the evidence in support and the lack of any opposition to this application on the part of the respondents, I determine pursuant to section 20ZA of the Landlord and Tenant Act 1985 that it is reasonable to dispense with the statutory consultation requirements in respect of the work described in application dated 3rd March 2014. Compliance with the full consultation procedure would have been likely to have resulted in further water damage to the Property and additional expense and inconvenience to the respondents.

24. This decision does not concern the issue of whether any service charge costs will be reasonable or payable.

Judge: Ms N Hawkes

Date: 9th May 2014