



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

Case reference : LON/00BB/LDC/2014/0045

Property : Flats 61-147 Stephens Road,
London E15 3JJ

Applicant : London Borough of Newham

Respondents : The various long leaseholders at
the property

Type of application : To dispense with the requirement
to consult leaseholders about
major works

Tribunal members : Angus Andrew
Mr Ian Holdsworth FRICS

Date of decision : 3 June 2014

DECISION

Decisions

1. We dispense with the consultation requirements of Section 20 of the Landlord and Tenant Act 1985, ("the Act") in so far as only as they relate to emergency repairs to the risers and lateral mains in the property and any building works required to make good.
2. The applicant shall serve a copy of this decision, together with the tribunal's letter and guidance on appeal, on each of the respondents within 10 working days of receipt and the applicant shall confirm in writing to the tribunal when it has done so.

Background

3. On 25 March 2014 the tribunal received an application under section 20ZA of the Act for dispensation from the consultation requirements of section 20 of the Act. The relevant provisions of these sections are set out in the appendix to this decision.
4. The application was undated and did not include a statement of truth. Following a letter from the tribunal these issues were remedied and directions were issued on 9 April 2014. The directions listed the application for determination on the basis of the documents alone although they informed all parties of their right to request an oral hearing. The directions included a response form that gave each respondent the opportunity to say whether or not they supported the application and whether they were content for the application to be decided on the basis of written representations. In the event only three respondents returned response forms. Two respondents supported the application and were content for it to be dealt with on the basis of written representations. The third response form although signed and dated was uncompleted.
5. As part of the applicant's capital programme for 2013/2014 it proposed to renew the main electrical distribution, communal lighting and door entry systems at both the property and two similar properties in Cridland Street and Church Street. It appears that the work was put out to tender and that Raytell Electrical Co. Ltd was appointed to undertake the work. However, in January 2014 and before work commenced a fault occurred to the main electrical riser at the property resulting in a total loss of electricity to all the flats and communal areas. On investigation it was found that two of the three phases in the main electrical supply cable were damaged beyond repair and in need of renewal. Temporary works were carried out to connect all the circuits to the remaining single phase. Although this provided electricity to all the flats it did so at reduced capacity. On the basis of the application that eventually included a statement of truth: *"... a full failure of all electrics to the block is likely if remedial works are not carried out as soon as possible. A further failure of this type would leave the flats with no electricity supply for lighting, heating or general power and alternative accommodation would need to be found for all residents"*.

6. The applicant now seeks dispensation from the consultation requirements of the Act in respect of proposed emergency electrical works. The work is to be undertaken by Raytell Electricity Co Ltd at an estimated cost of £108,669.84. On the basis of the documents provided this work would in any event have been undertaken in any event as part of the applicant's current capital programme.

Reasons for our decision

7. Having considered the contents of the document bundle provided in accordance with tribunal's directions we grant dispensation from the statutory consultation procedure in respect only of the proposed emergency works to the risers and lateral mains and any building work required to make good. We do so for each of the following reasons:
 - (a) the respondents will not be prejudiced by dispensation because the work would in any event have been undertaken as part of the applicant's current capital programme and the cost recovered through the service charge.
 - (b) none of the respondents have objected the proposed emergency works despite being given the opportunity to do so by the completion and return of the response forms.
 - (c) If the work is not completed without delay there is a real risk that the respondents will be left without any electricity supply. Consequently the works are urgent and failure to complete them without delay could jeopardise the health and safety of all the occupiers of the property.
 - (d) The cost of temporarily rehousing the occupiers, if the electricity supply were to fail completely, would be prohibitive and would not be in the public interest.
8. For the avoidance of doubt this decision relates solely to the question of dispensation from the consultation requirements. It does not concern the reasonableness of the proposed cost of the emergency works or the payability of any service charge relating to that cost, which may be subject to a separate application.
9. The applicant is required to serve a copy of this decision and the tribunal's letter and guidance on appeal on the respondents so that each of them is aware of their right to appeal this decision.

Name: Angus Andrew

Date: 3 June 2014

Appendix of relevant legislation

Landlord and Tenant Act 1985

Section 20

- (1) Where this section applies to any qualifying works or qualifying long term agreement, the relevant contributions of tenants are limited in accordance with subsection (6) or (7) (or both) unless the consultation requirements have been either—
 - (a) complied with in relation to the works or agreement, or
 - (b) dispensed with in relation to the works or agreement by (or on appeal from) a leasehold valuation tribunal.
- (2) In this section “relevant contribution”, in relation to a tenant and any works or agreement, is the amount which he may be required under the terms of his lease to contribute (by the payment of service charges) to relevant costs incurred on carrying out the works or under the agreement.
- (3) This section applies to qualifying works if relevant costs incurred on carrying out the works exceed an appropriate amount.
- (4) The Secretary of State may by regulations provide that this section applies to a qualifying long term agreement—
 - (a) if relevant costs incurred under the agreement exceed an appropriate amount, or
 - (b) if relevant costs incurred under the agreement during a period prescribed by the regulations exceed an appropriate amount.
- (5) An appropriate amount is an amount set by regulations made by the Secretary of State; and the regulations may make provision for either or both of the following to be an appropriate amount—
 - (a) an amount prescribed by, or determined in accordance with, the regulations, and
 - (b) an amount which results in the relevant contribution of any one or more tenants being an amount prescribed by, or determined in accordance with, the regulations.
- (6) Where an appropriate amount is set by virtue of paragraph (a) of subsection (5), the amount of the relevant costs incurred on carrying out the works or under the agreement which may be taken into account in determining the relevant contributions of tenants is limited to the appropriate amount.

- (7) Where an appropriate amount is set by virtue of paragraph (b) of that subsection, the amount of the relevant contribution of the tenant, or each of the tenants, whose relevant contribution would otherwise exceed the amount prescribed by, or determined in accordance with, the regulations is limited to the amount so prescribed or determined.

Section 20ZA

- (1) 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.
- (2) In section 20 and this section—
 - “qualifying works” means works on a building or any other premises, and
 - “qualifying long term agreement” means (subject to subsection (3)) an agreement entered into, by or on behalf of the landlord or a superior landlord, for a term of more than twelve months.