



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

Case Reference : LON/00BK/LDC/2014/0066

Property : Flats A-E, 44 Hereford road,
London W2 5AJ

Applicant : Genesis Housing Association

Representative : Mr S Burleigh, section 20
Procurement Team

Respondent : Westminster Community Homes
Ltd (Flats A, C and D), Mr R
Walters (Flat B) and Besma
Musaddaq (Flat E)

Representative : No appearance, but written consent
from Mr Walters (Flat B) and Ms
Rose (Flat A)

Type of Application : Dispensation from consultation
requirements

Tribunal Members : Judge Adrian Jack

Venue of Deliberations : 10 Alfred Place, London WC1E 7LR

Date of Decision : 7th July 2014

DECISION

Decisions of the tribunal

- (1) The Tribunal pursuant to section 20ZA of the Landlord and Tenant Act 1985 grants dispensation from the consultation requirements in respect of the works the subject of the application.

Procedural

1. The applicant landlord applies for a dispensation from the consultation requirements in section 20 of the Landlord and Tenant Act 1985 and the regulations thereunder in respect of the works already carried out to repair the communal roof and guttering of the property. The property is said to be a converted terrace house with basement, ground, first, second and third floors consisting of five flats.
2. The Tribunal gave directions on 28th May 2014, which provided for the tenants to be able to fill out a questionnaire and otherwise indicate any grounds for opposition to the application. In the event no tenant indicated any opposition to the application. There were consents from the tenant of Flat B, Mr Walters, and from Ms Rose who gives her address as Flat A, but in fact who seems to be Westminster Community Homes Ltd's operations manager and I assume is consenting on behalf of Westminster Community Homes Ltd.

Determination

3. In the current case there was an urgent need to carry out the works. The tenants in the upper floors were suffering leaks.
4. I remind myself that the sole issue for my determination is whether the landlord should be required to carry a full section 20 consultation in respect of the works. In my judgment the urgency of problem was such that dispensation should be granted. If the landlord had not acted as it did, it would have left itself open to serious criticism.
5. This does not leave the tenants without a remedy. If the cost of the works is excessive or if the quality of the workmanship poor, then it is open to the landlord or the tenants to apply to the Tribunal for a determination of those issues. That, however, would be the subject matter of a separate application.

Name: Judge Adrian Jack

Date: 7th July 2014

Appendix of relevant legislation

Landlord and Tenant Act 1985 (as amended)

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) the appropriate 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.

(3) The Secretary of State may by regulations provide that an agreement is not a qualifying long term agreement—

(a) if it is an agreement of a description prescribed by the regulations, or

(b) in any circumstances so prescribed.

(4) In section 20 and this section “the consultation requirements” means requirements prescribed by regulations made by the Secretary of State.

(5) Regulations under subsection (4) may in particular include provision requiring the landlord—

(a) to provide details of proposed works or agreements to tenants or the recognised tenants’ association representing them,

(b) to obtain estimates for proposed works or agreements,

(c) to invite tenants or the recognised tenants’ association to propose the names of persons from whom the landlord should try to obtain other estimates,

(d) to have regard to observations made by tenants or the recognised tenants’ association in relation to proposed works or agreements and estimates, and

(e) to give reasons in prescribed circumstances for carrying out works or entering into agreements.

(6) Regulations under section 20 or this section—

(a) may make provision generally or only in relation to specific cases, and

(b) may make different provision for different purposes.

(7) Regulations under section 20 or this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.