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

Case reference : **LON/00AZ/LDC/2018/0050**

Property : **93 Upper Brockley Road, London
SE4 1TF**

Applicant : **Southern Land Securities Limited**

Respondents : **The leaseholders of the Property as
per the application**

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

Tribunal member : **Judge P Korn**

Date of decision : **2nd May 2018**

DECISION

Decision of the tribunal

- (1) The tribunal dispenses with the consultation requirements in respect of the qualifying works which are the subject of this application to the extent that they have not already been complied with.
- (2) No cost applications have been made.

The application

1. The Applicant seeks dispensation under section 20ZA of the Landlord and Tenant Act 1985 ("**the 1985 Act**") from the consultation requirements imposed on the landlord by section 20 of the 1985 Act in relation to certain qualifying works, to the extent that those requirements have not already been complied with.
2. The Property is a converted end-of-terrace house and comprises 4 residential flats over 4 floors.
3. The application concerns qualifying works carried out to a collapsed light well containing a sump pump, including replacement of the sump pump.

Paper determination

4. In its application the Applicant stated that it would be content with a paper determination if the tribunal considered it appropriate. In its directions the tribunal allocated the case to the paper track (i.e. without an oral hearing) but noted that any party had the right to request an oral hearing. No party has requested an oral hearing and therefore this matter is being dealt with on the papers alone.

Applicant's case

5. The Applicant states that it was contacted on 19th October 2017 by the leaseholder of Flat 93a informing the Applicant that there had been water ingress in that leaseholder's flat. The Applicant then instructed a contractor to attend the Property as a matter of urgency and the contractor advised (as suspected by the Applicant) that the sump pump was in need of replacement and that the light well had collapsed.
6. The contractor provided a quote for £1,050 + VAT to carry out emergency works comprising inspection of the pump, supplying and installing a new sump pump and carrying out repairs to the light well. The contractor was instructed to carry out the work on 25th October and the works were completed on 31st October.

7. The Applicant states that the works were urgent because of the risk of flooding due to the malfunctioning of the sump pump. The Applicant wrote to all leaseholders after carrying out the works to explain the position and to make them aware that it would be making a retrospective application to the tribunal for dispensation from compliance with the consultation requirements. Since the works were completed there have not (as at the date of the statement of case) been any further issues with the sump pumps and no further flooding has been reported.
8. The Applicant has confirmed compliance with the tribunal's directions.

Responses from the Respondents

9. None of the Respondents has opposed the application or made any other representations.

The relevant legal provisions

10. Under Section 20(1) of the 1985 Act, in relation to any qualifying works *"the relevant contributions of tenants are limited ... unless the consultation requirements have been either (a) complied with ... or (b) dispensed with ... by ... the appropriate tribunal"*.
11. Under Section 20ZA(1) of the 1985 Act *"where an application is made to the appropriate 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"*.

Tribunal's decision

12. The tribunal notes that the Applicant's stated rationale for applying for dispensation is that the works were urgent because of the risk of flooding due to the malfunctioning of the sump pump.
13. Ideally it would have been helpful if the Applicant had provided more detail on the above point, supported by some form of report (however brief) from the contractor or some other specialist explaining why the works were so urgent as to preclude the possibility of any consultation. However, on the basis of the limited information provided, coupled importantly with the fact that none of the Respondents has objected, I am satisfied on balance that the works were sufficiently urgent to justify proceeding with the works without going through the consultation process. There is also no evidence before us that any of the Respondents has been prejudiced by the failure to consult fully.

14. I note also that the Applicant has complied with the tribunal's directions.
15. Therefore, I am satisfied that it is reasonable to dispense with the formal consultation requirements in respect of the qualifying works which are the subject of this application to the extent that those requirements were not complied with.
16. For the avoidance of doubt, this determination is confined to the issue of consultation and does not constitute a decision on the reasonableness of the cost of the works.

Name: Judge P Korn

Date: 2nd May 2018

RIGHTS OF APPEAL

- A. If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber) a written application for permission must be made to the First-tier Tribunal at the regional office dealing with the case.
- B. The application for permission to appeal must arrive at the regional office within 28 days after the Tribunal sends written reasons for the decision to the person making the application.
- C. If the application is not made within the 28 day time limit, such application must include a request for extension of time and the reason for not complying with the 28 day time limit; the Tribunal will then look at such reason and decide whether to allow the application for permission to appeal to proceed despite not being within the time limit.
- D. The application for permission to appeal must identify the decision of the Tribunal to which it relates (i.e. give the date, the property and the case number), state the grounds of appeal, and state the result the party making the application is seeking.