



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

**Case Reference** : **LON/00BG/LDC/2019/0006**

**Property** : **41 Wadeson Street, Bethnal Green  
London E2 9DP**

**Applicant** : **Southern Land Securities Ltd**

**Representative** : **Together Property Management**

**Respondent** : **ALL LESSEES AS PER  
APPLICATION**

**Representative** : **n/a**

**Type of Application** : **For dispensation from the  
consultation requirements  
required by section 20 of the  
Landlord and Tenant Act 1985**

**Tribunal Members** : **Judge Carr  
Ms Coughlin MCIEH  
Mr Francis**

**Date of Decision** : **18<sup>th</sup> March 2019**

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**DECISION**

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## **Decision of the Tribunal**

1. The Tribunal determines to exercise its discretion to dispense with the consultation requirements contained in Part 2 of Schedule 4 to the Service Charges (Consultation Requirements) England) Regulations 2003.

## **The Application**

2. Laura Cody, on behalf of Together Property Management, managing agents for the freeholder of the premises, applied on 8<sup>th</sup> January 2019 under section 20ZA of the Landlord and Tenant Act 1985 for dispensation from the consultation requirements contained in Part 2 of Schedule 4 to the Service Charges (Consultation Requirements) England) Regulations 2003.

## **Procedure**

3. The Tribunal held a case management review of this matter on 16<sup>th</sup> January 2019 and issued directions on the same date. In those directions it was decided that the matter should be determined on the basis of written representations and without an oral hearing.
4. The Directions gave an opportunity for any party to request an oral hearing. They also gave an opportunity for any leaseholder who wishes to oppose the application from the landlord to provide a statement to the Tribunal setting out his or her reasons for so doing. None of the parties requested an oral hearing, nor has any leaseholder indicated opposition to the application, and therefore the matter is being determined on the basis of the documents provided.

## **Determination**

## **The Evidence**

5. The evidence before the Tribunal indicates as follows:
  - a. On 16<sup>th</sup> October 2018 water ingress was reported into one of the flats (flat C). The managing agents instructed KBK Property Services Ltd to attend immediately to investigate the cause. KBK Property attended the same day and provided a quotation for the necessary works to resolve the problem.

- b. The cost of the works meant that a second quotation was required. On 17<sup>th</sup> October 2018 the managing agents contacted two further companies to arrange to attend and quote for the works, Neither of the companies provided quotes. Therefore the managing agents approached a further company, DF Keane Builders and Contractors for a quote on 2<sup>nd</sup> November 2018. They provided a quotation on 6<sup>th</sup> November 2018.
- c. This quotation triggered the consultation requirements. At the time the managing agents were consulting in connection with external repairs and redecorations at the property. The specification included a contingency sum which would cover the cost of the works. The intention was to carry out the works to the roof once this consultation process was complete.
- d. On 5<sup>th</sup> December 2018 the leaseholder of flat C contacted the managing agents to advise that the leak had become more serious and it was clear that the required repairs could not wait for the consultation process to be completed. The managing agents therefore asked KBK Property Services Ltd to proceed with their quotation.
- e. The managing agents therefore applied to the Tribunal for retrospective dispensation from the consultation requirements on the basis that significant damage was being caused which needed to be dealt with without delay.
- f. At the time of the application and following the issue of directions, the managing agents communicated with all of the lessees about the proposed works and their urgency. No objections were received in connection with the proposed works.

### **The Law**

- 6. The Tribunal is being asked to exercise its discretion under s.20ZA of the Act. The wording of s.20ZA is significant. Subs. (1) provides:
- 7. “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**” (emphasis added).

**The Tribunal's decision.**

8. The Tribunal determines to grant the application.

**The reasons for the Tribunal's decision.**

9. The Tribunal considers that the works are necessary and urgent; in particular it notes that works would become more extensive if delayed .

**The parties should note that this determination does not concern the issue of whether any service charge costs will be reasonable or indeed payable. The Respondents are able, if it appears to them to be appropriate, to make an application under s.27A of the Landlord and Tenant Act 1985 as to reasonableness and payability.**

Signed Judge Carr

Dated 18<sup>th</sup> March 2019