

9446



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

Case Reference : LON/00AN/LDC/2013/0091

Property : 51-70 Waldemar Avenue
Mansions, Waldemar Avenue,
London SW6 5LX

Applicant : 51-70 Waldemar Avenue Mansions
RTM Company Limited

Representative : Urban Owners Limited
(managing agents)

Respondent : The long leaseholders of the
property, as listed in the
application form

Representative : n/a

Type of Application : To dispense with the consultation
requirements

Tribunal Members : Miss J E Guest (solicitor)
Mr M Cairns MCIEH

**Date and venue of
Hearing** : 16/10/2013
10 Alfred Place, London WC1E 7LR

Date of Decision : 24/10/2013

DECISION

Decisions of the tribunal

The Tribunal makes the dispensation order under section 20ZA of the Landlord and Tenant Act 1985.

The application

1. The Applicant seeks an order pursuant to s.20ZA of the Landlord and Tenant Act 1985 (as amended) ("*the 1985 Act*") for the dispensation of any or all of the consultation requirements. The property concerned is 51-70 Waldemar Avenue Mansions and the application is made against all the leaseholders listed in the application.
2. The issue in this case is whether the consultation requirements of section 20 of the 1985 Act should be dispensed with given that urgent works were said to be necessary to deal with dry rot.

The background

3. The property which is the subject of this application is described as a wooden framed seven storey (plus basement) purpose built block of 20 flats constructed in approximately the 1880's.
4. The application was made on 10/09/2013 and the tribunal sent a copy sent to all the leaseholders listed on the application on 12/09/2013. Directions were ordered on 13/09/2013 when it was directed that a copy of the application and the directions order be sent to all leaseholders by 23/09/2013 and that any leaseholder who wished to oppose the application (either individually or collectively) respond by serving a statement of case by 07/10/2013. The tribunal was informed that a copy of the application and directions order of 13/09/2013 was sent to all leaseholders on 25/09/2013. There was no response from any of the leaseholders.

The hearing

5. The application was listed for a short hearing that took place on 16/10/2013. Mr Stephen Charles, RTM and legal case manager, and Mr Paul Bush, Project and Maintenance Team Leader, both of Urban Owners Limited, attended the hearing, which lasted about half an hour. Mr Charles and Mr Bush answered the tribunal's questions giving more information to the Tribunal regarding the background to the application.
6. The tribunal did not consider that an inspection was necessary and it would not have been proportionate to the issues in dispute.

The issues

7. The only issue before the Tribunal is whether it should grant dispensation from all or any of the consultation requirements contained in section 20 of the Landlord and Tenant Act 1985.

The Applicant's case

8. The Applicant filed a bundle of documents in accordance with the directions, which was considered by the tribunal prior to the hearing.
9. The property that is the subject of the application has been affected by water penetration from a leaking external downpipe. The leak emanated from part of the pipe encased in concrete at the basement level and caused dampness to the bathroom of Flat 52, which is a ground floor flat situated at the corner of the building. It also transpired that there was a leak above ground level and, during the course of investigations, it was discovered that the floor joists between Flat 52 and Flat 56 (directly over) were affected by dry rot. The specialist contractor, Rentokil Limited, recommended that action be taken urgently as several of the floor joists were in a dangerous state and also to prevent the spread the problem. Rentokil will provide a 20 year guarantee for their work.
10. The managing agents informed the tribunal that all leaseholders have been kept up to date with developments and that none had raised any concerns regarding the action that has been undertaken.

The Respondents' position

11. The directions provided that any leaseholder who wished to oppose the application for dispensation serve a statement of case. None of the leaseholders have served any statements of case or attended the hearing on 16/10/2013. The Tribunal concluded that the application was not, therefore, opposed.

The Tribunal's decision

12. The Tribunal determines that an order from dispensation under section 20ZA of the 1985 Act shall be made dispensing with all of the consultation requirements in relation to the works outlined above.

Reasons for the Tribunal's decision

13. The Tribunal has the jurisdiction to grant dispensation under section 20ZA of the 1985 Act "*if satisfied that it is reasonable to dispense with the requirements*".

14. In making its decision, the Tribunal had regard to the fact that the works were urgent since the dry rot problem poses a risk to the structural integrity of the building. The Tribunal also took into account the fact that none of the leaseholders had objected to the application. The Tribunal did not consider that any leaseholder would be prejudiced by the grant of dispensation.

15. The Tribunal would stress that it is not making any assessment of the reasonableness of the charges or whether the works fall with the Respondent's repairing obligations under the terms of the lease. A challenge to the charges may still be raised under section 27A of the 1985 Act in the future.

Dated: 24/10/2013

Signed: J E Guest