



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

Case Reference : **LON/00AU/LDC/2015/0003**

Property : **St Peter's Church, 124 Dartmouth
Park Hill, London N19 5HL**

Applicant : **St Peter's Church Management
Company Limited and the London
Diocesan Fund**

Representative : **Rendall Rittner Hammond Limited,
managing agents**

Respondents : **Various leaseholders as set out in
the schedule attached to the
application**

Representative : **None**

Type of Application : **For dispensation of the
consultation requirements under
section 20ZA**

Tribunal Member : **Judge O'Sullivan**

Date of Decision : **23 February 2015**

DECISION

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 described in the application as a converted Victorian Church containing 9 flats held on long leasehold and two flats retained by the freeholder known as Flats 1-11, St Peter’s Church, 124 Dartmouth Park Hill, London N19 5HL (the “Property”) and the application is made against the various leaseholders in the schedule attached to the application form (the “Respondents”).
2. The issue in this case is whether the consultation requirements of section 20 of the 1985 Act should be dispensed with.
3. The Applicant seeks dispensation in respect of qualifying works to be carried out.
4. An issue was raised in the directions as to who the correct party to the proceedings is. It was confirmed by Brethertons by email dated 30 July 2014 that the freeholder is the London Diocesan Fund and the head lessor is St Peter’s Church Management Company.

The background

5. The application was dated 7 January 2015. Directions were made dated 13 January 2015 which provided for the Applicant to serve a copy of the directions on all Respondents and for them to then indicate whether they consented to the application and wished to have a hearing.
6. The directions provided that this matter would be considered by way of a paper determination unless a hearing was requested. A hearing was not requested and accordingly the application was considered on the papers on 23 February 2015.
7. The Tribunal did not consider that an inspection was necessary, nor would it have been proportionate to the issues in dispute.
8. 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 1985 Act.

The Applicant's case

9. The Applicant had filed a bundle in accordance with the directions. In a covering letter dated 11 February 2015 it was confirmed that the Applicant was applying for dispensation for three sets of expenditure as follows;
 - i. Repairs to roofs over flats 7 and 8
 - ii. Scaffolding the front façade for safe removal of dangerous masonry and bricks
 - iii. Continuing cost of scaffolding to carry out further inspections and replacement and repair of the removed masonry and brickwork
10. Unhelpfully the Applicant had not filed a statement of case identifying each set of works by reference to the experts reports enclosed in the bundle and identifying why they were said to be urgent, why application for dispensation was made in respect of each category and the relevant costings. This would have been extremely helpful to the tribunal. Instead it was left to the tribunal to extract the relevant costings and information from parts of the reports which in some cases had been simply highlighted.
11. As far as the repairs to the roofs over flats 7 and 8 are concerned (9(i) above) the Applicant appears to rely on the report of Earl Kendrick marked as draft dated 8 December 2014. These works are estimated at £2,100 plus Vat. These works are said to be urgent to address the leak into Flat 8.
12. As far as the works to the front façade are concerned (ii) these appear to be repairs to the bell tower which are said to be urgent as falling masonry is a danger to the occupiers of the church and the public at large. By letter dated 11 February 2015 Earl Kendrick provided another report which referred to a copy of a report by Extreme Access who carried out a full inspection of the building using rope access to remove any loose/dangerous masonry where possible. This appears to deal with the works at (9(ii) above in relation to the dangerous masonry. Although the covering letter from Rendall Rittner Hammond refers to this category as *"scaffolding to the front façade for safe removal of dangerous masonry and brickworks"* this appears to also relate to the cost of the works themselves to remove the dangerous masonry and the application clearly states that the dispensation is sought in relation to the masonry works on health and safety grounds. In this report the estimated costs of the works were summarised as follows;

Removal of loose masonry and stabilisation of the front elevation by Rosewood Limited to include scaffolding – estimated at £36,750 plus Vat. Professional fees are also payable capped at £2,500 plus Vat.

13. Category 9(iii) concerns a request for dispensation in relation to the ongoing hire of scaffolding in the sum of £500 plus Vat per week. It is not clear to the tribunal for what period dispensation is sought. Earl Kendrick state in their report on page 3 that they recommend that the dispensation includes provision for the ongoing hire of the scaffolding to allow for further investigations and inspections in relation to long term works. It is said that the cost of retaining the scaffolding will be cheaper than the cost of removal and re-erection and that the contractor then appointed for the subsequent repair will take over the scaffolding.
14. A notice of intention to carry out the works was served on the leaseholders on 7 January 2015. However the Applicant says that due to the urgent nature of the works required dispensation is also sought as further damage will be caused by the delay in completing dispensation.

The Respondents' position

15. The directions provided for any Respondent who wished to oppose the application for dispensation to serve a statement of case. None of the leaseholders served any statements of case and thus the tribunal concluded that the application was unopposed.

The Tribunal's decision

16. 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 following works;
 - i. Repairs to roofs over flats 7 and 8
 - ii. Scaffolding the front façade for safe removal of dangerous masonry and bricks (for the avoidance of doubt to include the removal of loose masonry and the works outlined by Rosewood in the sum of £36,750 plus Vat plus professional fees capped at £2,00 plus Vat
17. The tribunal does not consider it reasonable to make an order dispensing from the consultation requirements in relation to the ongoing scaffolding hire at the present time.

Reasons for the Tribunal's decision

18. 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*".
19. The application was not opposed by the leaseholders. The tribunal is satisfied that the repairs to the roofs over flats 7 and 8 works to make safe the loose masonry are urgently required and that it is appropriate to grant an order for dispensation in these circumstances.
20. However the tribunal in its view did not have sufficient information before it to warrant an order for dispensation being made in relation to the ingoing cost of scaffolding hire. It did not have a statement from the Applicant setting out its grounds and confirming for what period it was envisaged this would be necessary. Given that the Applicant has yet to commission its surveyors reports in relation to the longer term repairs and then must consult under section 20 any scaffolding may well remain in place for a considerable length of time and the costs could be substantial. The tribunal has not been provided with any details of costings and the comparative savings to be made.
21. The Applicant may of course make a fresh application for dispensation in relation to the ongoing cost of scaffolding but this must include full costings and a full statement in support.
22. The tribunal hereby orders that the Applicant shall serve a copy of this decision on each leaseholder. The tribunal would indicate however that if there are any further works at the Property which may become necessary due to the age and general condition these should form part of a proper planned consultation.
23. The parties should be aware that this decision does not concern the issue of whether the service charge costs are reasonable and payable and those costs may be the subject of a challenge under section 27A of the Landlord and Tenant Act 1985.

Application under s.20C

24. There was no application for any order under section 20C before the tribunal.

Name: S O'Sullivan

Date: 23 February 2015