



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

**Case Reference** : **LON/00BK/LDC/2015/0056**

**Property** : **69-71 Gloucester Terrace,  
Bayswater, London W2 3DH**

**Applicant** : **Southern Land Securities Limited**

**Representative** : **Charla Vitosa**

**Respondent** : **Leaseholders as set out in the  
schedule attached to the  
application**

**Representative** : **N/A**

**Type of Application** : **Dispensation from consultation  
requirements**

**Tribunal Members** : **Judge Richard Percival**

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

**Date of Decision** : **1 June 2015**

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**DECISION**

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## **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 replace two boilers.
2. The Tribunal gave directions on 30 April 2015, 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. No questionnaire, either approving or objecting, has been received by the Tribunal.

## **The property and the works**

3. The property is a Grade 2 listed Victorian house in a conservation area. It has been converted into 25 flats, in the basement, ground floor and four upper floors.
4. In December 2014, it became apparent that the heating and/or hot water to some at least of the flats was not working. One inspection (on 16 January 2015) found that only one of the two boilers serving the property was operational. On inspection by another contractor on 20 January 2015, the contractor found the boilers to be in "very poor condition", it being evident "that both the boilers and boiler room haven't been maintained up to even a basic standard." The condition of the boilers was such as to constitute a danger, and they were disconnected.
5. The boilers were incapable of repair. The landlord obtained two quotations for their replacement and accepted the lower (from Village Heating Ltd). Both boilers were replaced on 22 January, and invoiced on 24 January 2015.

## **Determination**

6. In the current case there was an urgent need to carry out the works. After the boilers were condemned as a safety risk, none of the flats had either heating or hot water. Before that, at least some of them had not had heating and/or hot water for some weeks.

7. I remind myself that the sole issue for my determination is whether the landlord should have been 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.
8. This does not leave the leaseholders without a remedy. If the cost of the works is excessive or if the quality of the workmanship poor, or if costs sought to be recovered through the service charge are otherwise not reasonably incurred, then it is open to the leaseholders to apply to the Tribunal for a determination of those issues. That, however, would be the subject matter of a separate application.

**Name:** Judge Richard Percival      **Date:** 1 June 2015

## **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.