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

**Case reference** : **LON/00AU/LDC/2016/0016**

**Property** : **70 Elizabeth Avenue N1 3BH**

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

**Representative** : **Hamilton King Management Limited**

**Respondents** : **Mr Bent & Ms Gwinner (Flat A)  
Ms Watkins & Mr Kier (Flat B)**

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

**Tribunal Members** : **Judge N Hawkes  
Mr H Geddes RIBA**

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

**Date of paper determination** : **23<sup>rd</sup> March 2016**

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**DECISION**

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## **Background**

1. The applicant has applied to the Tribunal under S20ZA of the Landlord and Tenant Act 1985 (“the 1985 Act”) for dispensation from the consultation requirements contained in section 20 of the 1985 Act in respect of certain qualifying works to 70 Elizabeth Avenue N1 3BH (“the Property”).
2. The Tribunal has been informed that the Property comprises a mid-terrace Victorian house constructed in around 1890 which has been converted into two self-contained flats.
3. The application is dated 29<sup>th</sup> January 2016 and the respondent lessees are listed in a schedule to the application.
4. Directions of the Tribunal were issued on 12<sup>th</sup> February 2016. The applicant has requested a paper determination. No application has been made by any of the respondents for an oral hearing. This matter has therefore been determined by the Tribunal by way of a paper determination on Wednesday 23<sup>rd</sup> March 2016.
5. The Tribunal did not consider that an inspection of the Property would be of assistance nor would it have been proportionate to the issues in dispute.

## **The applicant’s case**

6. The applicant applies for dispensation from the requirements to consult leaseholders under section 20 of the 1985 Act in respect of works already undertaken following the collapse of a drain at the Property.
7. The applicant states that there was a partial collapse of the main drain serving the Property and that this required urgent attention in order to prevent the basement and front garden areas from being flooded with sewage.
8. As the works were urgent, the landlord was unable to go through the statutory consultation process and now seeks dispensation from those requirements. It is understood by the Tribunal that the works were completed on 1 December 2015 and involved laying a section of new pipework to the main drains together with associated works.
9. A letter was sent to the respondents explaining the need for the works to be carried out on 18<sup>th</sup> November 2015.

### The respondents' case

10. None of the respondents have filed written representations opposing the application.

### The Tribunal's determination

11. Section 20 of the 1985 Act provides for the limitation of service charges in the event that statutory consultation requirements are not met. The consultation requirements apply where the works are qualifying works (as is the case in this instance) and only £250 can be recovered from a tenant in respect of such works unless the consultation requirements have either been complied with or dispensed with.
12. The consultation requirements are set out in the Service Charges (Consultation Requirements) (England) Regulations 2003.
13. Section 20ZA of the 1985 Act provides that, where an application is made to the 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.
14. Having considered the application; the evidence in support; and the lack of any opposition on the part of the respondents; we accept that the qualifying works described in the applicant's application of 29<sup>th</sup> January 2016 were urgently required and we determine, pursuant to section 20ZA of the Landlord and Tenant Act 1985, that it is reasonable to dispense with the statutory consultation requirements in respect of this work.
15. **This decision does not concern the issue of whether any service charge costs will be reasonable or payable.**

Judge N Hawkes

Date 23<sup>rd</sup> March 2016

### ANNEX - RIGHTS OF APPEAL

1. If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber) then a written application for permission must be made to

the First-tier Tribunal at the Regional office which has been dealing with the case.

2. 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.
3. If the application is not made within the 28 day time limit, such application must include a request for an extension of time and the reason for not complying with the 28 day time limit; the Tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed despite not being within the time limit.
4. 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.