



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

Case Reference	:	LON/00BJ/LDC/2019/0104
Property	:	61-82 Cambridge Mansions, Cambridge Road, London SW11 4RX
Applicant	:	61-82 Cambridge Mansions Cambridge Road London SW11 4RX
Representative	:	South Kensington Property Management Limited and David Hooper {Landlords Surveyor}
Respondent	:	Various leaseholders of the 22 flats that comprise the property. The details of which are submitted with the application
Representative	:	None
Type of Application	:	An application under section 20ZA of the Landlord and Tenant Act 1985 for dispensation from consultation prior to carrying out works
Tribunal Members	:	Mr I B Holdsworth FRICS MCI Arb
Date and venue of Hearing	:	21 August 2019, 10 Alfred Place, London WC1E 7LR
Date of Decision	:	21 August 2019

DECISION

Decisions of the Tribunal

The Tribunal determines that dispensation should be given from all the consultation requirements in respect of the works to identify and remedy the causes of penetrating dampness, (defined as the “damp repair works”) at 61-82 Cambridge Mansions, Cambridge Road, London SW11 4RX required under s.20ZA of the Landlord and Tenant Act 1985 (the “Act”) for the reasons set out below. The agreed maximum expenditure on the damp repair works at the property is £20,000 inclusive of VAT.

The application

1. The Applicant seeks a determination pursuant to s.20ZA of the Landlord and Tenant Act 1985 (“the 1985 Act”) to dispense with the statutory consultation requirements associated with undertaking essential works to remedy penetrating dampness at 61-82 Cambridge Mansions, Cambridge Road, London SW11 4RX **“the property”**.
2. An application was received by the First-tier Tribunal dated 26 June 2019 seeking dispensation from the consultation requirements. Directions were issued on the 4 July to the Applicant. These Directions required the Applicant to advise all Respondents of the application and provide them with details of the proposed works.
3. The relevant legal provisions are set out in the Appendix to this decision.

The hearing

4. This matter was determined by written submissions. The Applicant submitted a Bundle of relevant materials to the Tribunal.
5. Nine responses were received by Tribunal from the Respondents since they were advised of the intention to seek dispensation from the statutory consultation procedure by the managing agents.

The background

6. The property which is the subject of this application is a purpose built five-storey building. The property has twenty-two self-contained flats. Two penthouses were added to the building in 2006.

7. The property was constructed between 1896 and 1899. It is built of solid brickwork, part rendered to some facades with a flat asphalt covered roof.
8. Several of the flats suffer from water ingress. It is suspected defective curtain walling is the cause of this water penetration but defective flashing and failed lead bell casting around the chimney may also contribute to this dampness problem.
9. BRE were instructed to inspect and advise on likely causes of this continuing dampness and recommend appropriate works to rectify the defect. They reported on 10 December 2018 and recommended repairs to the curtain walling, render and defective brickwork.
10. The estimated cost of these initial repair works is approximately £6,000 inclusive of VAT. This is based upon a single contractor quote.
11. The Applicants brought the matter to the Residents Annual General Meeting on 13 March 2019. It was resolved at that meeting that residents would be asked to contribute an additional £20,000 to meet the cost of the damp repair works.
12. The managing agents issued a Letter of Intent on 17 June which advised residents they intended to seek dispensation from statutory consultation. Nine residents replied with support for the application. One resident asked that the costs be restrained to £6,010 inclusive of VAT.
13. No subsequent Notice of Intention to carry out the proposed damp repair works was sent to leaseholders and it is not the intention of the Applicants to carry out any further consultation about this matter.
14. The Applicants contend that the damp repair works are needed urgently to ensure the health and safety of residents, particularly of those residents who occupy flats numbers 77, 78, 79, 81 and 82. The Applicants have confirmed to Tribunal the full extent of the required remedial work is not known.
15. Prior to my determination I had available a Bundle of papers which included the application, the directions and a copy of written representations prepared by the Applicants that included the BRE report. The Resident responses were also included in the Bundle.
16. A copy of a specimen lease for each flat is supplied. The Landlord is responsible for the maintenance of the "*Retained Parts*". The retained parts are defined at 1.1 (b) in the lease. At Schedule 5, Part 1 Services, the services include "(a)...repairing the Retained Parts". The costs of carrying out these works are recoverable in the service charge.

17. The only issue for me to consider is whether or not it is reasonable to dispense with the statutory consultation requirements in respect of the damp repair works. This application does not concern the issue of whether any service charge costs are reasonable or payable.

The determination

17. I have considered the papers lodged. There is no objection raised by the Respondents, either together or singularly. The only objection referred to the cost of the works.
18. There is a demonstrated need to carry out the works urgently to minimise the risk of significant further damage to the property and reduce the likelihood of harm to the residents and their personal effects, particularly those who occupy upper floor flats at the property. I cannot identify any prejudice caused to the Respondents by the grant of dispensation from the statutory consultation procedure.
19. It is for these reasons that I am satisfied it is appropriate to dispense with the consultation requirements for the damp repair works. It is acknowledged that the full scope of these works is not yet defined so this dispensation is restricted to damp repair works with **payable and reasonable costs not exceeding £20,000 inclusive of VAT.**
20. **My decision does not affect the right of the Respondents to challenge the costs or the standard of work should they so wish.**
21. **In accordance with paragraph 10 of the Directions, it is the Applicant's responsibility to serve a copy of the Tribunal's decision on all Respondent leaseholders listed on the Application.**

Valuer Chairman: Ian B Holdsworth

21 August 2019

Appendix of relevant legislation

Section 20 of the Act

- (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) a leasehold valuation 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.

Rights of appeal

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the tribunal is required to notify the parties about any right of appeal they may have.

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.

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.

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.

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.

If the tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).