



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

Case reference : **LON/00BC/LDC/2019/0128**

Property : **Grange Court and Sunnyside, 35
Gordon Road, South Woodford,
E18 1DW**

Applicant : **Together Property Management**

Representative :

Respondents : **Six leaseholders listed in the
application**

Type of application : **An application for dispensation
from the consultation
requirements of s.20 Landlord and
Tenant Act 1985**

Tribunal member : **(1) Tribunal Judge Brandler
(2) Mr Hugh Geddes, Professional
Member**

**Date and venue of
hearing** : **N/A**

Date of decision : **23 September 2019**

DECISION

Decision

1. The tribunal grants the applicant retrospective dispensation from the statutory consultation requirements in respect of works carried out to Grange Court and Sunnyside, 35 Gordon Road, South Woodford, E18 1DW (“the Buildings”). Works were carried out between 12th March and 6th August 2019. The works have resolved the problems of sewage flooding into flat A Sunnyside. The costs incurred were in relation to works carried out to a broken interceptor and associated works.
2. The tribunal makes no order under section 20C of the Landlord and Tenant Act 1985.

Background

3. Sunnyside contains two self-contained flats and The Grange contains four self-contained flats. These two buildings together form the Estate which is managed by Together Property Management.
4. Flat A Sunnyside experienced flooding on or around 25th February 2019 and a contractor had to attend the property to clear blockages and pump out sewage water from the cellar and additionally wet vac was used to remove the remaining water.
5. Further complaints of sewage flooding were received. On 21st May 2019 there was a third report of water sitting in the basement. This required pumping out of the basement cellar.
6. A quote for full repair was provided to break out a concrete pathway and to remove the broken interceptor and to install a straight through pipe with access channel and an access chamber. This was required urgently to avoid further flooding in the building
7. The works carried out have resolved the flooding problems.
8. On 9th August 2019 an application for dispensation from the consultation requirements of s.20 Landlord and Tenant Act 1985 was made by the managing agents Together Property Management. Leaseholders have been made aware of the works and have been sent letters to make them aware of the sewage backing up and the proposal to submit an application for retrospective dispensation from the section 20 process as the works are of an urgent nature.
9. On 16th August 2019 the tribunal issued directions. These included a direction that by 23rd August 2019, the applicant must serve the application and the tribunal’s directions upon all of the leaseholders. The applicant was also required to display those documents in a prominent position in the common parts of the property and to confirm in writing by 28th August 2019 that these actions had been completed.

10. On 23rd August 2018 the applicant confirmed that the directions had been complied with.

The leaseholders' case

11. None of the leaseholders have objected to this application.

Reasons for Decision

12. The leading authority in relation to s.20ZA dispensation requests is *Daejan Investments Ltd v Benson* [2013] 1 WLR 854 (“Benson”) in which the Supreme Court set out guidance as to the approach to be taken by a tribunal when considering such applications. This was to focus on the extent, if any, to which the lessees were prejudiced in either paying for inappropriate works or paying more than would be appropriate, because of the failure of the landlord to comply with the consultation requirements. In his judgment, Lord Neuberger said as follows;

44. Given that the purpose of the Requirements is to ensure that the tenants are protected from (i) paying for inappropriate works or (ii) paying more than would be appropriate, it seems to me that the issue on which the LVT should focus when entertaining an application by a landlord under section 20ZA(1) must be the extent, if any, to which the tenants were prejudiced in either respect by the failure of the landlord to comply with the Requirements.

45. Thus, in a case where it was common ground that the extent, quality and cost of the works were in no way affected by the landlord’s failure to comply with the Requirements, I find it hard to see why the dispensation should not be granted (at least in the absence of some very good reason): in such a case the tenants would be in precisely the position that the legislation intended them to be – ie as if the Requirements had been complied with.

13. The tribunal were satisfied that it had been reasonable for the Management agents to act promptly to carry out works to pump out sewage from the basement flats and carry out remedial works, which appear to have been effective. The works carried out are not inappropriate or unnecessary.

14. The tribunal grants the application for dispensation.

15. The tribunal made no order under section 20C of the Landlord and Tenant Act 1985.

D. Brandler

**Tribunal Judge
Brandler**

23 September 2019

APPENDIX 1
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.

APPENDIX 2
RELEVANT LEGISLATION

Landlord and Tenant Act 1985

20ZA. Consultation requirements: supplementary

- (1) Where an application is made to the appropriate 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.