



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

**Case Reference** : **LON/00AY/LDC/2020/0011**

**Property** : **49 Arlingford Road  
Brixton, London SW2 2SS**

**Applicant** : **Together Property Management  
Limited**

**Respondents** : **Various Leaseholders, see Annexe A**

**Type of Application** : **Under section 20ZA of the  
Landlord and Tenant Act 1985  
(‘the Act’) for dispensation from  
the consultation requirements in  
respect of qualifying works**

**Date of Application** : **6 January 2020**

**Date of Decision** : **11 February 2020**

**Tribunal** : **Mrs A J Rawlence MRICS**

---

**DECISION**

---

© CROWN COPYRIGHT 2020

## DETERMINATION

**The Tribunal grants dispensation from the consultation requirements contained in section 20 of the Act and the associated Regulations in respect of the qualifying works, the subject of the Application.**

### **Reasons for the Tribunal's determination**

#### **Introduction**

1. On 6 January 2020 Together Property Management Limited ('the **Applicant**') applied to the Tribunal ('the **Application**') for an order under section 20ZA of the Act dispensing with the consultation requirements contained in section 20 of the Act and associated regulations in respect of 49 Arlingford Road, Brixton, London SW2 2SS ('the **Property**'). The Respondents are the leaseholders of the three flats at the Property.
2. Section 20ZA (1) of the Act provides as follows:

*'(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 do so.'*
3. The works the subject of the Application, which had been started at the date of the Application, involved the erection of scaffolding and new lead flashings and guttering works at the rear of the Property. The Applicant stated that the reason for the urgency was that both bedrooms off the top floor flat were affected by water ingress and the flat could become uninhabitable. Further details are contained in the paragraphs containing the Applicant's submissions (see below).
4. The Applicant requested a paper track (i.e. on the basis of the written submissions of the parties).
5. Directions were issued by the Tribunal dated 14 January 2020.
6. The Tribunal proceeded to determine the Application without an inspection as photographs had been supplied by the Applicant along with an invoice detailing the works.

#### **The relevant lease provisions**

7. The Tribunal was provided with a copy of the Lease for First Floor Flat, 49 Arlingford Road, Brixton, London. The Lease is dated 22 January 1997 and is made between White Rhino Developments Ltd (Landlord) and the respective Tenant. In consideration of a premium and the payments of a ground rent and a service charge, the Lease grants the Property to the Tenant for a period of 125 years from 29 September 1996.

8. It is assumed that the remaining leases are similar in all material respects.
9. Paragraph 6 of the Lease states the Landlord's Covenants:

*6. (A) (1) He will keep in good and substantial repair and condition (and whenever necessary rebuilt and reinstate and renew and replace and improve all worn or damaged parts): -*

*(i) The main structure of the Building (including but without prejudice to the generality of the foregoing the foundations the principal internal timbers joists and beams and the exterior walls and all structural walls columns and piers (whether external or internal) and the roof thereof) save so such matters as may be included in this demise or in the demise of any Residential Unit.*
10. The Tenant covenants in Paragraph 4 (E) of the Lease to pay the service charge in the manner provided in Clause 7 of the lease.

### **The Applicant's submissions**

11. The Applicant is responsible for the maintenance of the main structure which includes the roof.
12. On 28 November 2019, the Applicant became aware that the top floor flat of the Building was experiencing rain ingress in both bedrooms at the rear of the property.
13. A roofing contractor inspected the damage on 9 December 2019 and stated that, in order to undertake repairs safely, scaffolding would need to be erected.
14. By letter dated 10 December 2019 all three leaseholders were invited to make written observations on the proposal to carry out roof repairs; the consultation period to end on 14 January 2020.
15. A verbal quotation was then received from the roofing contract Darren Hall Roofing and the leaseholders were informed on 17 December 2019 that a decision would be made as to whether an application for dispensation for any consultation requirements would need to be made to the First tier Tribunal, once the written quote had been received.
16. Access was required from the leaseholder of the ground floor flat to erect the scaffolding and, once this was obtained, the works went ahead. These were completed on 7 January 2020.
17. The Tribunal notes that the insurer of the Property was made aware of the damp ingress. The Applicant decided to carry out the works as a matter of urgency and before the flat became uninhabitable.
18. The Tribunal notes that there have been no representations from any of the Respondents as set out in the Directions.

## **The Tribunal's Determination**

19. The Tribunal was provided with evidence that the work was urgent to prevent continued water ingress into the top floor flat.
20. It is not the concern of the Tribunal, in any case, as to whether the cost was reasonably incurred. The Respondents retain the right to challenge the cost by making an application under section 27A of the Act at a later date. The question before the Tribunal is whether it is reasonable, in the circumstances of the case to dispense with the consultation requirements. The Tribunal therefore determines that it is just and equitable that dispensation is granted from the consultation requirements contained in section 20 of the Act and the associated regulations requested by the Application.

A J Rawlence MRICS – Chairman.

### **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.

Annexe A

Ms C L Frankling  
Mr M Peters and Mrs E Peters  
Mrs C Reid