



**First-tier Tribunal  
Property Chamber  
(Residential Property)**

<b>Case reference</b>	:	<b>CAM/22UH/LDC/2020/0001</b>
<b>Properties</b>	:	<b>Warren Hall, Manor Rd, Loughton Essex IG10 4RP</b>
<b>Applicant</b>	:	<b>Warren Hill Mansion Amenity Ltd</b>
<b>Respondents</b>	:	<b>The leaseholders of the properties listed in the application</b>
<b>Date of Application</b>	:	<b>14 January 2020</b>
<b>Type of Application</b>	:	<b>for permission to dispense with consultation requirements in respect of qualifying works - Section 20ZA Landlord and Tenant Act 1985 (“the Act”)</b>
<b>Tribunal</b>	:	<b>Mrs M Hardman FRICS IRRV (Hons)</b>
<b>Date of Decision</b>	:	<b>24 February 2020</b>

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**DECISION**

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**Decision**

1. The Applicant is granted dispensation from the statutory consultation requirements in respect of the qualifying works .

**Reasons**

**Introduction**

2. The Management Company has applied for dispensation from the statutory consultation requirements in respect of repairs to the roof balcony on the first floor
3. The development comprises a former Victorian mansion comprising of 6 apartments.
4. The balcony roof to Flat 4 required repairing following reports of water ingress to Flat 1 . In addition the box gutter was cleared and rubble removed from site.

5. The work took place due to the damage that was being caused to Flat 1 and a retrospective application for dispensation from the statutory dispensation requirements was made. Leaseholders were informed by email and via a leaseholders meeting. The cost of the work for which dispensation is sought was £4089.60 including VAT.
6. A procedural chair issued directions timetabling this case to its conclusion. One of the directions said that this case would be dealt with on the papers taking into account any written representations made by the parties and a decision would be made on or after **11 February 2020**. This was extended at the request of the Applicant to **24 February 2020**. It was made clear that if any party requested an oral hearing one would be arranged. No such request has been received and no objections were received from leaseholders
7. The tribunal also received a request from the Applicant to withdraw the application on the basis that they believed that the works were covered by the section 20 notice they had already issued for major works. The judge informed the Applicant that they needed to comply with Rules 22(2) (d) and (e) of the Tribunal Procedure (First-tier Tribunal) Rules 2013 – namely to confirm that a copy of the notice had been provided to all other parties and the date when this happened and to include the written consent of any of the other parties who had consented to the withdrawal.
8. These documents were not received by the tribunal but the bundles were subsequently received and therefore the tribunal has issued its decision.

## **The Law**

9. Section 20 of the 1985 Act limits the amount which lessees can be charged for major works unless the consultation requirements have been either complied with, or dispensed with by a leasehold valuation tribunal (now called a First-tier Tribunal, Property Chamber). The detailed consultation requirements are set out in Schedule 3 to the Service Charges (Consultation Requirements) (England) Regulations 2003. These require a fairly complicated consultation process which gives the lessees an opportunity to be told exactly what is going on and the landlord must give its response to those observations and take them into account.
10. The landlord's proposals, which should include the observations of tenants, and the amount of the estimated expenditure, then have to be given in writing to each tenant and to any recognised tenant's association. Again, there is a duty to have regard to observations in relation to the proposals, to seek estimates from any contractor nominated by or on behalf of tenants and the landlord must give its response to those observations
11. Section 20ZA of the Act allows this Tribunal to make a determination to dispense with all or part of the consultation requirements if it is satisfied that it is reasonable and the Tenants have not suffered prejudice.

## **Discussion and Conclusions**

12. Following the Supreme Court decision of *Daejan Investments Ltd. v Benson* [2013] UKSC 14, the only issue for the Tribunal is whether the Respondents have suffered prejudice in dispensing with the requirements.
13. Taking into account the urgency of the work and the potential risks of delay, and that no leaseholders objected, it would clearly be unsatisfactory to the Applicant and the Respondents for the work to have been delayed.
14. The Tribunal therefore grants dispensation from the consultation requirements of S.20 Landlord and Tenant Act 1985 in respect of the works to the roof balcony and box gutter as specified in the application.
15. This is not an application for the Tribunal to approve the reasonableness of the works or the reasonableness, apportionment or payability of the service charge demand. I make no finding in that regard and the leaseholders will continue to enjoy the protection of section 27A of the Act.

### **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.