



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

Case reference : **LON/00AW/LDC/2020/0107 P**

Property : **1 – 28 Kensington Court Gardens,
Kensington Court Place, London
W8 5QE**

Applicant : **KCG Residents Association Limited**

Representative : **William Heath & Co - solicitors**

Respondent : **The Leaseholders as per the
application**

Representative : **none**

Type of application : **Dispensation under s20ZA
Landlord and Tenant Act 1985**

Tribunal member : **Tribunal Judge Dutton**

Date of decision : **8th September 2020**

DECISION

Decisions of the Tribunal

- (1) This has been a remote determination on the papers, which has not been objected to by the parties. A face to face hearing was not held because it was not considered practicable and all issues could be determined on papers before me as was requested by the applicant in its application. The documents that I was referred to are in a bundle of some 105 pages including the application and directions, the contents of which I have noted.
- (2) I determine that dispensation should be granted from the consultation requirements under s20 of the Landlord and Tenant Act 1985 (the Act) and the Service Charges (Consultation Requirements) (England) Regulations 2003, for the reasons I have stated below.
- (3) I make no determination the reasonableness of the costs of the works, these being matters which can be considered, if necessary, under the provisions of s27A and s19 of the Act.

The application

1. In an application dated 26th July 2020, the applicant management company sought dispensation from the consultation provisions in respect of urgent works to the front elevation of the property at 1 – 28 Kensington Court Gardens, Kensington Court Place, London W8 5QE (the Property). It is averred that there is a serious concern for the safety of the occupants, visitors and passers-by, as the masonry of the piers between the windows has failed and is at risk of collapse. The Property is a purpose-built block of 38 flats over eight storeys.
2. Directions were issued on 28th July 2020 requesting that any leaseholder who objected to the application should notify the applicant and complete and return to the tribunal a questionnaire. By an email dated 21st August 2020, Mr Fleming of William Heath confirmed that no leaseholder had contacted him to object. Similarly, I am not aware that any leaseholder has been in contact with the tribunal to object to the application.
3. I have no details of the costings but the works for which dispensation from consultation is required is set out in a report by Lawson Martin (Mr Martyn Long a director MEng CEng MIStructE) dated 22nd July 2020. This essentially requires scaffolding to be erected to enable short term 'shoring up' to take place to render the building safe and for further investigation of the structure to be undertaken.
4. No works have yet been commenced pending the determination of this application for dispensation.

Findings

5. The Law applicable to this application is to be found at s20ZA of the Act. I have borne in mind the Supreme Court decision in Daejan and Benson. So far as I am aware no objection has been lodged by a leaseholder. It would seem clear from the report of Mr Long that urgent safety work is required to protect the occupier, visitors and passers-by from falling masonry. Once that has been undertaken it will be necessary to investigate the cause of the serious structural problem. Accordingly, I am satisfied that these preventative works need to be urgently undertaken. I therefore find that it is reasonable to grant dispensation from the consultation requirements required under s20 of the Act in respect of the works set out in Mr Long's report of 22nd July 2020.
6. It will be for the applicant to satisfy any leaseholder that the costs of the works and the works themselves were reasonable and payable under the service charge regime of the leases by which the leaseholders own their interest in their respective flats. My decision is in respect of the dispensation from the provisions of s20 of the Act only.

Andrew Dutton

Name: Tribunal Judge
Dutton

Date: 8th September 2020

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 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 to 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 (ie 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**

