



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

Case reference : **LON/00BK/LDC/2020/0176P**

Property : **12, Montagu Row, London, W1U
6ED**

Applicants : **Orchive London Ltd**

Representative :
(1) Purbeck Business Corporation

Respondents : **(2) Montagu Property Holdings
(Jersey) Ltd**
(3) Mr A J Brecher

Representative :

Type of application : **For the dispensation of some of the
consultation requirements under
s.20 Landlord and Tenant Act 1985**

Tribunal members : **Judge Simon Brilliant**
Ms M Krisko FRICS

Venue : **10 Alfred Place, London WC1E 7LR**

Date of decision : **09 December 2020**

DECISION

Decision of the Tribunal

The Tribunal determines that those parts of the consultation requirements provided for by s.20 of the Landlord and Tenant Act 1985 ("the Act") which have not been complied with are to be dispensed with.

The background

1. The Applicant seeks a determination pursuant to s.20ZA of the Act for the dispensation of all or any of the consultation requirements provided for by s.20 of the Act. The application is dated 11 September 2020.
2. Directions were given on 19 October 2020.
3. The case has been listed for a paper determination. On 29 October 2020, Ms Sewell of Aldermartin Baines & Cuthbert, the managing agents, sent the application notice and directions to each of the Respondents.
4. 12 Montagu Row is a residential property which consists of a single block converted to house four separate units - three residential and 1 commercial.

The hearing

5. The matter was determined by way of a paper hearing which took place remotely on 09 December 2020. No request for an oral hearing had been made. The lessee of Flat C has consented to the application. No objection has been made by either of the other two lessees.

The application

6. I cannot do better than paraphrasing the grounds provided by Ms Sewell for seeking dispensation in the application notice:

On 5 October we were notified by the lessee of Flat C that the high-level roof areas were leaking into Flat C. We then arranged for CJAP Builders to attend on 9 October to investigate where the leak was coming from. He advised that high level rear roof repairs urgently need to be carried out to restore the flat into a watertight condition and that he could not do a temporary tarpaulin repair as the problems with the roof were too complicated.

In mid-October we received 2 estimates for the roof works which exceeded the s.20 threshold and due to this we advised Flat C that we would need to issue a Part 1 s.20 notice before the works could go ahead and apply to the Tribunal for dispensation of the s.20 consultation process to speed up the process for the works, which he agreed in writing to proceed.

On 15 October we issued a Part 1 s.20 notice and we applied to the Tribunal for dispensation of the s.20 consultation on 16 October.

7. The application notice also set out the proposed works:

The high-level rear roof areas are leaking into Flat C and have degraded and weathered and are now in need of urgent and necessary repairs and other ancillary works: Scaffolding will be required to the front elevation of the property.

Details of proposed works • Renew lead flashings to rear valley areas • Replace ridge tiles. • Reset tiles and adjust slipped and damaged tiles. • Repair the water outlet and install a larger outlet pipe and connectors. • Put ventilated caps on the chimney pots. • Trim and cut roof tiles so as to fit with the lead flashings. • Redress leadwork. • Water test all roofing areas affected • Seal with roofing felts and bitumen any cracked or damaged areas. • Clean and tidy site and remove all rubbish

from site • Compliance with all H & S issues and working from height issues. • Scaffolding to front elevations of property.

8. Two quotations have been obtained. Sinclair Builders Ltd in the sum of £9,850 and CJAP Ltd in the sum of £7,500 plus VAT (£9,000).

9. The only issue for the Tribunal is whether it is reasonable to dispense with the statutory consultation requirements. **This application did not concern the issue of whether any service charge costs will be reasonable or payable.**

Decision of the tribunal

10. s.20 of the Act provides for the limitation of service charges in the event that the statutory consultation requirements are not met. The consultation requirements apply where the works are qualifying works (as in this case) and only £250 can be recovered from a tenant in respect of such works unless the consultation requirements have either been complied with or dispensed with.

11. Dispensation is dealt with by s.20ZA of the Act which provides:-

"Where an application is made to a leasehold valuation 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"

12. The Tribunal has no hesitation in saying that that, in the particular circumstances of this case, involving a clear and immediate need to carry out repairs to the roof in order to prevent further water ingress, it is reasonable to dispense with the consultation requirements in respect of the repairs to the roof.

| | | | |
|--------------|-----------------|--------------|------------------|
| Name: | Simon Brilliant | Date: | 09 December 2020 |
|--------------|-----------------|--------------|------------------|

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).