FIRST-TIER TRIBUNAL

PROPERTY CHAMBER (RESIDENTIAL PROPERTY)

Case reference	:	**LON/00BB/LDC/2019/0177**
Property		**Channelsea House, Canning Road, London E15 3FA**
Applicants	:	**IDM Properties LLP**
Representative	:	**IDM Property Management Ltd**
Respondents	:	**Various lessees**
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**
Venue	:	**10 Alfred Place, London WC1E 7LR**
Date of decision	:	**11 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 2 October 2019.

2. Directions were given on 06 November 2019. Further directions were given on 30 January 2020. The Respondents were informed of this by a letter dated 05 February 2020. The Respondents were each provided with a reply form stating whether they did or did not support the application.

3. The case has been listed for a paper determination.

4. Channelsea House, is a substantial detached building consisting of 72 purpose-built flats and two commercial units.

The hearing

5. The matter was determined by way of a paper hearing which took place on 09 December 2020. No request for an oral hearing had been made. All the lessees have consented to the application, bar two.

The application

6. The application concerns the renewal of building insurance for the period of 18 months from 01 April 2019.

7. The application notice states:

The quotes for renewing the building insurance were received shortly before the policy renewed. If we progressed with section 20 proceedings the development would not have been insured for a period of time. Due to the claims history[1] *many insurers did not provide quotes to insure the development*[2].

8. The directions state:

The building insurance policy was renewed for 18 months from 01 April 2019. The section 20 process was commenced but the quotes for renewing the policy were received shortly before the previous policy was due to expire. The Applicant contends that if full consultation had taken place before renewing policy the Property would have been uninsured for period of time.

9. In a letter dated 18 November 2019, sent to all the Respondents the managing agents explained that hitherto the insurance year was from April to April and they had entered into an 18 month agreement so as to align it to the service charge year from September to September.

10. Mr Ahmet made a statement dated 01 August 2020 opposing the application. He states that the Applicant had been dealing with the same broker (Towergate) for more than three years, using the same insurance company (Zurich) for over two years. He was not convinced that the Applicant was under pressure to act quickly to insure

[1] A payment of £789,693 was made in 2016/17.

[2] See pages 3 and 4 of Towergate Insurance's renewal overview in 2019. Because of the claims history the portfolio policy was not classed as profitable business to insurers. Ultimately, despite the deteriorating claims experience, Zurich agreed renewal at the 2018 rates. As there were no other options available from the market, it was Towerwgate’s Insurance's professional opinion that the advice to renew with Zurich was in the best interests of the Respondents.

the building without consulting the leaseholders. Insuring the building for 18 months did not provide any benefit to the Respondent.

11. However, he later withdrew his opposition to the application.

12. Mr and Mrs Dharamsi also made a statement opposing the application. They say that the management company first engaged Zurich last year because the previous insurer, AXA, refused to renew the building. Its refusal was because the management company submitted numerous claims during the first year of completion of the building, which resulted in claims for over £1 million. Therefore they believe the management company should have been aware of the difficulties in insuring the building and should have engaged with the insurer earlier to avoid entering into it an 18 month contract.

13. They also later withdrew their opposition to the application.

14. I am told that by the date of this decision there remained only two of the Respondents objecting to the application.

15. 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.** The issue as to whether the Applicant could have obtained a better price for insurance if it had acted in any different way, particularly in sourcing the insurance earlier than it did (as to which there is no evidence at this time), would have to be brought by way of a s.27A application.

Decision of the tribunal

16. 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.

17. 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"

18. The Tribunal is of the view that, in the particular circumstances of this case, involving a clear and immediate need to insure the building, it is reasonable to dispense with the consultation requirements in respect of such insurance.

Name:	Simon Brilliant	**Date:**	11 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).