



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

Case Reference: LON/00BK/LDC/2020/0160 P

HMCTS code: P: PAPERREMOTE

Property: 121 St George's Square, London SW1V
3QP

Applicant: 121 St George's Square Limited

Representative : Ringley Law LLP

Respondents: The leaseholders of 121 St George's
Square named in the application

Representative: None advised

**Type of
Application:** To dispense with the statutory
consultation requirements under
section 20ZA Landlord and Tenant Act
1985

**Tribunal
members:** Judge Pittaway
Mr R Waterhouse BSc MA LLM FRICS

Date of decision: 18 December 2020

Covid-19 pandemic: description of hearing

This has been a remote hearing on the papers which has been consented to by the applicant and not objected to by any respondent. The form of remote hearing was P:PAPERREMOTE. A face-to-face hearing was not held because no-one requested a hearing and all issues could be determined on paper. The documents to which the tribunal was referred are in an electronic bundles of 64 pages (consisting of the application, the Directions issued by the tribunal dated 26 October 2020, e mails circulating the application and directions to the respondent, a one-page undated report from Pump Services Surrey Ltd (**Pump**), a specimen lease and correspondence with the tribunal). In addition, the tribunal were provided with a one page document described as an estimate but which is an invoice dated 31 July 2020 and an undated manuscript page from Pump headed "Follow up works". The decision made is set out below.

DECISION

The Tribunal grants the application for dispensation from statutory consultation in respect of the subject works, namely urgent pump repairs to the failing water pumps, as referred to in the Invoice from Pump dated 31 July 2020 and in the undated report from Pump included in the bundle before the tribunal.

The applicant should, within seven days of receipt of this decision send a copy of this decision by e mail, hand delivery or first class post to each of the respondents and display a copy in a prominent position in the common parts of the Property, together with an explanation of the leaseholders' appeal rights.

This decision does not affect the Tribunal's jurisdiction upon any future application to make a determination under section 27A of the Act in respect of the reasonableness and/or the cost of the work.

The Application

1. The Applicant seeks a determination pursuant to section 20ZA of the Landlord and Tenant Act 1985 ("the **Act**") for dispensation from consultation in respect of the repairs to the roof of the Property. The Service Charges (Consultation Requirements) Regulations 2003 provide that consultation requirements are triggered if the landlord plans to carry out qualifying works which would result in the contribution of any tenant being more than £250. The application did not state the total cost of the works and this was not apparent from the documents before the tribunal, but a minimum cost of £15,498 is clearly contemplated.
2. By directions dated 26 October 2020 (the "**directions**") the tribunal directed the applicant send each of the leaseholders the application, the tribunal's directions, the applicant's professional report as to the urgency of the works and an estimate of the cost and display the same in the common parts of the Property, confirming

to the tribunal that it had done so. The applicant confirmed to the tribunal on 11 November that the application, directions, professional report and estimate of costs had been sent to each leaseholder by e mail on 9 November with a further copy of the report sent to each leaseholder on 11 November.

3. The directions required any leaseholder who opposed the application should tell the tribunal and the applicant. They should also send the tribunal and the applicant a statement responding to the application together with any documents they wished to rely on. The applicant did not confirm to the tribunal whether it received any statements of objection. The tribunal did not receive any.
4. The directions provided that the tribunal would decide the matter on the basis of written submissions unless any party requested a hearing. No such request has been made.

The applicant's case

5. 121 St George's Square Limited is the freeholder management company. The freeholder is not named in the application but the specimen lease provided confirms that 121 St George's Square Limited is a party to the lease (described as the 'Management Company').
6. In its application the applicant described the Property as a grand residence now converted into six flats and a basement. In the specimen lease provided the applicant covenants to keep the Reserved Property in repair, which includes the parts of the building available from time to time for the use of the occupiers and the conduits not used exclusively by one flat. The lessee covenants to pay the Water Charge (being a metered proportion of the water supplied to the building) and the Service Charge, which includes the cost to the applicant of keeping the Reserved Property in repair.
7. The application states that Section 20 stage one notices were served at the time that the application was made. These have not been provided in the bundle before the tribunal but it notes that the directions refer to Notice of Intention to carry out work at the building having been served on 21 September 2020.
8. The applicant considers the works to be urgent as the failing water pumps are causing a nuisance to the residents and jeopardizing their health and safety because of low or no water pressure.

The Respondents' case

9. The tribunal received no respondent's objection to the application

Determination and Reasons

10. Section 20ZA(1) of the Act 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.”

11. The whole purpose of section 20ZA is to permit a landlord to dispense with the consultation requirements of section 20 of the Act if the tribunal is satisfied that it is reasonable for them to be dispensed with. Such an application may be made retrospectively, as it would appear to have been made here, at least in relation to some of the work.
12. The Tribunal has taken account the decision in *Daejan Investments Ltd v Benson and others* [2013] UKSC 14 in reaching its decision.
13. The papers before the tribunal do not state the exact scope of the works or their cost/ estimated cost. The undated report from Pump in the bundle is a one page document and this contains no estimate. It is clear from the specimen lease that there is a communal supply of water to the flats. The Pump report refers to the pump system being old, corroded and failing. It also refers to the noise that the basement residents are subjected to. The document described as an estimate is an invoice dated 31 July 2020 for £15,498. This refers to attendance on site to install a new booster set, water meter and insulation ‘as per the attached report sheets’ but no report sheets are attached.
14. Notwithstanding the absence of the information referred to in paragraph 13 there is no evidence before the tribunal that the respondents will be prejudiced by the failure of the applicant to comply with the consultation requirements. The tribunal is therefore satisfied that it is reasonable to dispense with all or any of the consultation requirements in relation to the repair works to the water pump system.
15. Whether the works have been carried out to a reasonable standard and at a reasonable cost are not matters which fall within the jurisdiction of the tribunal in relation to this present application. This decision does not affect the tribunal’s jurisdiction upon any future application to make a determination under section 27A of the Act in respect of the reasonableness and /or cost of the works.

Name: Judge Pittaway Date: 18 December 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 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.