



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

Case reference : **LON/00AY/LDC/2020/0208**

**HMCTS code
(P:PAPERREMOTE)** : **P: PAPERREMOTE**

Property : **Flats 1 to 3, 32 Northlands Street,
Camberwell, London SE5 9PL**

Applicant : **Together Property Management
(managing agent on behalf of Southern
Land Securities – landlord)**

Respondents : **Lessees of Flats 1 to 3 (as per schedule
attached to application)**

Type of application : **Sections 20ZA – dispensation form
consultation**

Tribunal member : **Judge Tagliavini**

**Venue & date
of hearing** : **10 Alfred Place, London WC1E 7LR
P: PAPERREMOTE**

Date of decision : **23 February 2021**

DECISION

Covid-19 pandemic: description of hearing

This has been a remote video hearing which has been consented to by the parties. The form of remote hearing was **P: PAPERREMOTE**. A face-to-face hearing was not held because it was not practicable and all issues could be determined in a remote/paper hearing.. The tribunal was referred to the applicant's bundles containing pages 1 to 59 on which the parties relied. The order made is described as follows.

Summary of decisions of the first-tier residential property tribunal

- (1) The tribunal refuses the application seeking dispensation from the consultation procedures required by section 20 of the Landlord and Tenant Act 1985 in respect of works to a right leaning chimney stack at 32 Northlands Street, Camberwell, London SE5 9PL.**
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The application

1. This is an application under section 20ZA of the Landlord and Tenant Act 1985 seeking dispensation for the tribunal in respect of works to rectify a leaning chimney stack at 32 Northlands Street, London SE5 9PL ('the property'). The subject property comprises 3 flats in a converted Victorian end of terrace house.

The applicant's case

2. The tribunal was provided with a Statement of Case. In this, the applicant asserted that contractors who had attended on site to quote for major works of External Repairs and Redecorations and scheduled for around Spring or Summer 2021, had identified a potential health and safety risk due to a leaning chimney stack. It was said therefore, urgent works were required in order to alleviate this risk presented by this chimney stack. The applicant asserted that although major works had been scheduled, the start date for these was uncertain due to the need to collect funds through the service charges and was reliant on the availability of the contractors.
3. In a collection of emails sent to the lessees in or around October 2020 the applicant informed them that Angell Thompson, the contractors administering the major works project, had identified a clearly visible inner lean to the right hand chimney stack. The applicant asserted that they had been advised by Angell Thompson to have urgent works to remedy this lean to the chimney stack carried out as temporary works would be either ineffective or not cost effective.
4. The applicant also provided the tribunal with a quote for the 'chimney stack works' from Falcon Structural Repairs dated 02/11/2020 in the sum of

£5571.00. A quote from M. Hart Construction Ltd dated 16 November 2020 provided a figure of £5920.00 in respect of similar works.

5. In November 2020 the applicant subsequently decided to proceed with the quote provided Falcon Structural Repair Services although a start date had not at that time been arranged. In an email dated 27 January 2021 the respondent lessees were advised that works to the chimney stack were being carried out in or around the beginning of February 2021.

The respondents case

6. The tribunal was provided with an objection to the application for dispensation by Ms Kathryn Broomhead the lessee of Flat 1 (undated). Ms Broomhead asserted that there was no evidence that the works to the chimney stack were not necessarily urgent and could be combined with the schedule exterior major works. Ms Broomhead asserted that the applicant had not provided a qualified surveyor or independent expert report detailing the nature of the work and the urgency with which it was required to be carried out. In addition, Ms Broomhead stated this was the second application made by the applicant within the last 24 months. Dispensation from the consultation procedures had also been sought from the tribunal in or about December 2019 in respect of roof works. Ms Broomhead asserted that these works could have identified and addressed the leaning chimney stack at that time.
7. Ms Broomhead also asserted that the cost of another set of scaffolding in order to carry out these works to the chimney stack was excessive and unnecessary.

The tribunal's findings and decision

8. The tribunal finds that it is unable to assess the urgency of these works due to the absence of any report from a qualified surveyor or even the report of Angell Thompson. Further, the tribunal finds that the applicant does not seek to rely on any sort of report that details any monitoring of the movement of the chimney stack that was carried out. Further, the tribunal finds that the applicant has provided insufficient evidence of possible alternatives to the proposed works.
9. The tribunal is not satisfied that these works are sufficiently urgent or that they could not have been combined either in the earlier (2019/20) roof works or wait until the major works to the exterior are carried out. The tribunal is satisfied that Ms Broomhead has identified a prejudice that would be caused to her by the need to make payment for another set of scaffolding so close to the time when major works to the exterior, also requiring scaffolding are to be carried out.
10. Therefore, the tribunal refuses the application to dispense with consultation procedures required by section 20 of the Landlord and Tenant Act 1985.

Name: Judge Tagliavini

Date: 23 February 2021

Rights of appeal from the decision of the tribunal

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).