



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

Case Reference : **LON/00BJ/LDC/2020/0235
P:REMOTE**

Property : **17, 23 & 27 Hardwick Square, SW18 4AG**

Applicant : **Centre Square Management
Wandsworth Company Ltd**

Representative : **JCF Property Management**

Respondents : **The Lessees as named on the
application**

Representative : **Not represented**

**Type of
Application** : **S20ZA Landlord and Tenant Act 1985**

Tribunal Member : **Judge F J Silverman MA LLM
Mrs S Redmond MRICS**

**Date of paper
consideration** : **09 March 2021**

Date of Decision : **09 March 2021**

DECISION

The Tribunal determines that it will exercise its discretion to dispense with the consultation requirements imposed by s.20 of the Landlord and Tenant Act 1985 on the grounds that all tenants were notified of the application under s20ZA and the Applicant needs to submit an application for government funding as a matter of urgency. Remedial works are required to remove fire hazardous materials from the structure in order to ensure the safety of the building for its residents and the public. No objections were received to the application.

REASONS

1. By an application made to the Tribunal on 01 December 2020 the Applicant seeks a determination of its application for dispensation from the consultation requirements imposed by s. 20 of the Landlord and Tenant Act 1985.
2. Directions were issued by the Tribunal on 07 December 2020 as varied on 16 February 2021.
3. This matter was determined by a paper consideration P:REMOTE on 09 March 2021 at which the Tribunal considered the Applicant's application and accompanying documents.
4. The Directions issued by the Tribunal were sent by the Applicant to all Respondents asking them to respond and to indicate whether or not they opposed the application. No objections were received by the Tribunal.
5. The subject premises consist of 100 flats situated in three blocks together with some commercial units. A cladding survey has been carried out which established that the existing wall system has polystyrene insulation behind it. An application has been made for assistance from the Government's fund for cladding remedial works.
6. A specialist consultant has been instructed. The tenderer has to be instructed within strict time limits in order to be eligible to receive money from the fund.

7. There is insufficient time for the Applicant to draw up a full specification of the works and put the work out to tender to at least two contractors before the expiry date.
8. The Applicant has, accordingly, applied for dispensation from the statutory consultation requirements in respect of the cladding remedial works.
9. A notice of intention to carry out works was issued on 4 August 2020 and the consultation period ended on 7 September 2020. So far it has only been possible to obtain only one estimate for the works.
10. The only issue for the Tribunal is whether it is reasonable to dispense with the statutory consultation requirements.
11. No further consultation has been undertaken but the Respondents have been informed of developments and notified of the intention to apply to the Tribunal for dispensation from the consultation requirements. As stated above, no objections to the application have been received from any of the Respondents.
12. The Applicant seeks dispensation from compliance with the requirements of section 20 of the Landlord and Tenant Act 1985 as amended in relation to the remedial works required to replace the existing defective cladding on the building with new cladding that complies with current Building Regulations and which does not contain potentially combustible materials and in relation to the associated fees as it would not be practical or possible to comply properly with the consultation requirements given the prescribed timeframe.
13. The application states that they are qualifying works, which are works that, without a dispensation from the Tribunal, would require the Applicant to follow the consultation requirements set out in section 20 Landlord and Tenant Act 1985 and the Service Charges (Consultation Requirements) (England) Regulations 2003.
14. The application is said to be urgent because the review has to be carried out to answer questions in the next stage of the Government's Building Safety Fund application.
15. The Applicant therefore requests the Tribunal to grant a dispensation from compliance with the full requirements of the section in order to allow the application for grant to proceed as soon as possible.
16. The Tribunal was not asked to inspect the property and in the context of the issues before it did not consider that an inspection of the property would be either necessary or proportionate.
17. The Applicant management company has a repairing obligation in respect of the structure, exterior and common parts of the premises (including mains services). An example of the leases under which the

Respondents hold their respective properties is included at Appendix C of the bundle.

18. The Tribunal is being asked to exercise its discretion under s.20ZA of the Act. The wording of s.20ZA is significant. Subs. (1) 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*” (emphasis added).

19. The Tribunal understands that the purposes of the consultation requirements is to ensure that leaseholders are given the fullest possible opportunity to make observations about expenditure of money for which they will in part be liable .

20. Having considered the submissions made by the Applicant the Tribunal is satisfied that the application is both necessary and urgent and that no undue prejudice will be caused to or suffered by any tenant by the grant of dispensation under s20ZA.

21. This determination does not affect the tenants’ rights to apply to the Tribunal challenging the payability or reasonableness of the service charges.

Judge F J Silverman as Chairman
Date 09 March 2021

Note:
Appeals

RIGHTS OF APPEAL

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application by email to rplondon@justice.gov.uk.
2. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.
3. If the person wishing to appeal does not comply with the 28 day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28 day time limit; the Tribunal will then decide

whether to extend time or not to allow the application for permission to appeal to proceed.

4. The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking.