



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

**Case Reference** : **CAM/26UF/LDC/2021/0004**

**Property** : **Quaker Yard, Meeting House Lane,  
Baldock Herts SG7 5DJ**

**Applicant** : **Veltrim Ltd., (Landlord)**

**Representative** : **Eight Asset Management Ltd.  
(Managing Agent)**

**Respondents** : **Leaseholders of Flats 3 - 5**

**Representative** : **None**

**Landlord** : **Veltrim Ltd.**

**Type of Application** : **S20ZA of the Landlord and Tenant  
Act 1985 - dispensation of  
consultation requirements**

**Tribunal** : **N. Martindale FRICS**

**Hearing Centre** : **Cambridge County Court, 197 East  
Road, Cambridge CB1 1BA**

**Date of Decision** : **29 March 2021**

---

**DECISION**

---

## **Decision**

1. The Tribunal does NOT grant dispensation from any of the requirements on the applicant to consult all leaseholders under S.20ZA of the Landlord and Tenant Act 1985, in respect of the qualifying works referred to; being the commission of an EWS1, External Wall Survey 1.

## **Background**

2. The landlord applied to the Tribunal under S20ZA of the Landlord and Tenant Act 1985 (“the Act”) for the dispensation from all or any of the consultation requirements contained in S20 of the Act.
3. The application related to the commissioning of an External Wall Survey (EWS) to identify any defects in the building and works arising to ensure fire safety compliance.

## **Directions**

4. Directions dated 3 February 2021 were issued by Deputy Regional Judge Wyatt of the Tribunal, without an oral hearing. They provided for the Tribunal to determine the application on or after 29 March 2021, unless a party applied on or before 5 March 2021 for a hearing. No request was received by the Tribunal.
5. The applicant landlord was, to send to each of the leaseholders a copy of the application form, other evidence and the Directions by 18 February 2021 and to certify the date of compliance, to the Tribunal.
6. Leaseholders who objected to the application were to send a reply form and statement to the Tribunal by 5 March 2021. The applicant was to prepare a bundle of documents including the application form, Directions, sample lease and all other documents on which they wanted to rely; all responses from leaseholders, a certificate of compliance referred to above; with 2 copies to the Tribunal and 1 to each respondent leaseholder and do so by 19 March 2021.
7. The applicant failed to comply fully with the Directions in part. It did not certify the actual date of service on leaseholders it stated that it had notify each leaseholder, as required.
8. In the event, the Tribunal did not receive any requests for a hearing, nor did it receive any forms in support of or objection to respondents either directly or indirectly via the bundle.
9. The Tribunal determined the case on the bundle received from the applicant, only.

## **Applicant's Case**

10. The Property appears to be a small residential development known as Quaker Yard. This appears to consist of a small number of houses and a small block of 3 flats. The qualifying works only concern the 3 flats.
11. The application at box 7 confirms that these are to be qualifying works and that they had been started, and by the date of the determination now completed. At box 9 the applicant was content for paper determination and applied for them, at box 10, to be dealt with by Standard Track. There was said to be no 'special reason for urgency in this case'.
12. The application at box 'Grounds for seeking dispensation', 1. stated: *"To carry out and (an ?) EWS1 survey for £2500 + VAT for the 3 flats located within the block. This is due to take place next week."*
13. The application at box 2. below this, described the consultation that had been carried out or is proposed to be carried out; *"We have approached a number (number ?) of companies and this company (unnamed) is the cheapest of all of them (of them ?) being some £6-7k cheaper than others we have found and therefore we are to use this company (unnamed) which will save on costs for leaseholders."*
14. The application at box 3. explained why they sought dispensation of all or any of the consultation requirements. *"We need to have these works carried out to ensure the building is safe and compliant (compliant ?) surrounding current (current ?) fire regulations. Minor cladding areas need to be tested to ensure continued resident safety and to allow (allow ?) residents to sell their properties which is currently not feasible given mortgage companies are requesting this to be completed."*

## **Respondent's Case**

15. The Tribunal did not receive any objections or other representations from the leaseholders.

## **The Law**

16. S.18 (1) of the Act provides that a service charge is an amount payable by a tenant of a dwelling as part of or in addition to the rent, which is payable for services, repairs, maintenance, improvements or insurance or landlord's costs of management, and the whole or part of which varies or may vary according to the costs incurred by the landlord. S.20 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.20 ZA 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 consultation requirements for qualifying works under qualifying long term agreements are set out in Schedule 3 of the Service Charges (Consultation Requirements) (England) Regulations 2003 as follows:-

**1(1) The landlord shall give notice in writing of his intention to carry out qualifying works –**

- (a) to each tenant; and**
- (b) where a recognised tenants’ association represents some or all of the tenants, to the association.**

**(2) The notice shall –**

- (a) describe, in general terms, the works proposed to be carried out or specify the place and hours at which a description of the proposed works may be inspected;**
- (b) state the landlord’s reasons for considering it necessary to carry out the proposed works;**
- (c) contain a statement of the total amount of the expenditure estimated by the landlord as likely to be incurred by him on and in connection with the proposed works;**
- (d) invite the making, in writing, of observations in relation to the proposed works or the landlord’s estimated expenditure**
- (e) specify-**
  - (i) the address to which such observations may be sent;**
  - (ii) that they must be delivered within the relevant period; and**
  - (iii) the period on which the relevant period ends.**

**2(1) where a notice under paragraph 1 specifies a place and hours for inspection-**

- (a) the place and hours so specified must be reasonable; and**
- (b) a description of the proposed works must be available for inspection, free of charge, at that place and during those hours.**

**(2) If facilities to enable copies to be taken are not made available at the times at which the description may be inspected, the landlord shall provide to any tenant, on request and free of charge, a copy of the description.**

**3. Where, within the relevant period, observations are made in relation to the proposed works or the landlord's estimated expenditure by any tenant or the recognised tenants' association, the landlord shall have regard to those observations.**

**4. Where the landlord receives observations to which (in accordance with paragraph 3) he is required to have regard, he shall, within 21 days of their receipt, by notice in writing to the person by whom the observations were made state his response to the observations.**

### **Tribunal's Decision**

19. The scheme of the provisions is designed to protect the interests of leaseholders and whether it is reasonable to dispense with any particular requirements in an individual case must be considered in relation to the scheme of the provisions and its purpose.
20. The Tribunal must have a cogent reason for dispensing with the consultation requirements, the purpose of which is that leaseholders who may ultimately pay the bill are fully aware of what works are being proposed, the cost thereof and have the opportunity to nominate contractors.
21. The application was not described as urgent and the applicant was content with the standard track. The applicant; failed to provide any supporting information regarding fire safety compliance or its likely short fall; failed to provide any supporting evidence of how and when it approached surveying companies to perform the service; what that service was to be, when it was to be performed and the prices quoted, from the companies approached. It failed to provide even a schedule of company names, expertise, address and prices quoted. In particular it failed to provide a copy of the specification and price from the company it later appointed to carry out the EWS1. It might have included in the bundle a copy of the EWS1 said to have been needed, commissioned and provided by early February 2021, but, also failed to do so.
22. There was no evidence that the applicant had contacted the leaseholders at all, even before making the application. The applicant appeared to have left this to the last minute before a contract was awarded for the survey. The application form is carelessly completed with numerous spelling errors. It appears to the Tribunal that the applicant had simply chosen not

to comply with the consultation requirements at all. In short, no cogent reasons with supporting evidence, were provided in the bundle to demonstrate to the Tribunal that this work could not have been dealt with via the usual statutory consultation process.

23. The fact that no objections to the application had been received is not alone sufficient reason to dispense with any aspect of the consultation process. The fact that the applicant did not certify the actual date when it was said to have complied with the requirement to notify the leaseholders in compliance with the Directions, concerns the Tribunal.
24. Application from dispensation of any of the statutory consultation process is refused. The maximum sum to be chargeable to each leaseholder of the 3 flats at this Property, for this work is therefore capped at £250.
25. **In making its determination of this application, it does not concern the issue of whether any service charge costs are reasonable or indeed payable by the leaseholders. The Tribunal's determination is limited to this application for dispensation of consultation requirements under S20ZA of the Act.**

N Martindale FRICS

29 March 2021