



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

Case reference : **Lon/00AH/LDC/2021/0041**

**HMCTS code
(paper, video,
audio)** : **P: PAPERREMOTE**

Property : **752A London Road, Thornton Heath
Surrey CR7**

Applicant : **Mr J Dubal**

Representative : **Written Application by Mr Sean Deans
of mcdowalls (As managing agent)**

Respondent : **Ms P J Millet, Mr A Mohammed, Mr S
Ahmad**

Representative : **None**

Type of application : **Application for dispensation from
consultation requirements under s20ZA
of the Landlord and Tenant Act 1985**

Tribunal members : **Mr A Harris LLM FRICS FCIArb**

Venue : **10 Alfred Place, London WC1E 7LR**

Date of decision : **3 June 2021**

DECISION

Covid-19 pandemic: description of hearing

This has been a remote hearing on the papers which has been not objected 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 no-one requested the same and all issues could be determined on paper. The documents that I was referred to are in a bundle of 55 pages, the contents of which I have noted. The order made is described at the end of these reasons.

Decisions of the tribunal

- (1) The tribunal does not have jurisdiction to grant dispensation from the consultation requirements under s20 ZA of the Landlord and Tenant Act 1985 in respect of the main roof.
- (2) The tribunal grants dispensation from the consultation requirements of s20ZA in respect of the roof at first floor level although the application is not clear if this roof is involved.

The application

1. The Applicant seeks dispensation from the consultation requirements under section 20ZA of the Landlord and Tenant Act 1985 (“the 1985 Act”) in respect of works required to the roof at 752 London Road Thornton Heath.
2. The relevant legal provisions are set out in the Appendix to this decision.

The hearing

3. A written application was made by mcdowalls, the managing agents of the property. The case was decided on paper and no appearances were made. The tribunal considered the written application form, copy letters to the leaseholders, estimates and a specimen lease.

The background

4. The property which is the subject of this application is a shop on the ground floor with 2 floors of residential accommodation above. The application states that the roof is defective, although it is not clear which part or parts of the roof, and in need of urgent replacement. The bundle includes photographs showing severe water damage internally. The cost of the works amounts to £7,985 plus VAT. The bundle included a 2nd estimate in the sum of £8,575 plus VAT.
5. A specimen lease has been provided. A list of leaseholders has been provided with confirmation from the agents that they have been notified

of the proposed works. No representations have been received objecting to the application as to the scope of the works or appropriateness of the application.

The tribunal's decision

6. The lease is dated 26th day of July 1982 and demises the 1st and 2nd floor flat known as 752 a London Road Thornton Heath and
 - including the doors windows and window frames,
 - ceilings and floors (excluding the beams and joists under the 1st floor)
 - it's internal and external walls above the level of the underside of the 1st floor
 - it's roof (excluding that section which extends over the shop premises at 1st floor level and is coloured yellow on the plan
 - the external staircase leading from Raymead passage to the 1st floor
 - the gutters rainwater and downpipes above the level of the underside of the 1st floor
7. The lease also requires the lessee to contribute a proportion of the cost of repairing maintenance of the roof at 1st floor level extending over the shop premises at the rear of the building.
8. The lessee is also to pay by way of further rent a yearly sum equal to the insurance premiums.
9. The lease does not contain any provisions for a service charge.
10. Under the provisions of the lease, repair of the roof over the flat is the responsibility of the leaseholder of the flat and therefore the tribunal has no jurisdiction to grant dispensation.
11. The flat leaseholder has an obligation to contribute a proportion of the cost of the repair and maintenance of the roof at first floor level extending over the shop premises at the rear of the building. Insofar as the works involve this roof dispensation is granted.

Name: A Harris LLM FRICS FCIArb **Date:** 3 June 2021

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).

Appendix of relevant legislation

S20 Limitation of service charges: consultation requirements

- (1) Where this section applies to any qualifying works or qualifying long term agreement, the relevant contributions of tenants are limited in accordance with subsection (6) or (7) (or both) unless the consultation requirements have been either—
 - (a) complied with in relation to the works or agreement, or
 - (b) dispensed with in relation to the works or agreement by (or on appeal from) a leasehold valuation tribunal.
- (2) In this section "relevant contribution", in relation to a tenant and any works or agreement, is the amount which he may be required under the terms of his lease to contribute (by the payment of service charges) to relevant costs incurred on carrying out the works or under the agreement.
- (3) This section applies to qualifying works if relevant costs incurred on carrying out the works exceed an appropriate amount.
- (4) The Secretary of State may by regulations provide that this section applies to a qualifying long term agreement—
 - (a) if relevant costs incurred under the agreement exceed an appropriate amount, or
 - (b) if relevant costs incurred under the agreement during a period prescribed by the regulations exceed an appropriate amount.
- (5) An appropriate amount is an amount set by regulations made by the Secretary of State; and the regulations may make provision for either or both of the following to be an appropriate amount—
 - (a) an amount prescribed by, or determined in accordance with, the regulations, and
 - (b) an amount which results in the relevant contribution of any one or more tenants being an amount prescribed by, or determined in accordance with, the regulations.
- (6) Where an appropriate amount is set by virtue of paragraph (a) of subsection (5), the amount of the relevant costs incurred on carrying out the works or under the agreement which may be taken into account in determining the relevant contributions of tenants is limited to the appropriate amount.
- (7) Where an appropriate amount is set by virtue of paragraph (b) of that subsection, the amount of the relevant contribution of the tenant, or each of the tenants, whose relevant contribution would otherwise exceed the amount prescribed by, or determined in accordance with, the regulations is limited to the amount so prescribed or determined.[\[FN1\]](#)

[FN1] ss.20-20ZA substituted for s.20 subject to savings specified in SI 2004/669 art.2(d)(i)-(vi) by Commonhold and Leasehold Reform Act (2002 c.15), Pt 2 c 5 s 151

S20ZA Consultation requirements: supplementary

- (1) 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.
- (2) In section 20 and this section—
"qualifying works" means works on a building or any other premises,
and
"qualifying long term agreement" means (subject to subsection (3))
an agreement entered into, by or on behalf of the landlord or a superior landlord, for a term of more than twelve months.
- (3) The Secretary of State may by regulations provide that an agreement is not a qualifying long term agreement—
 - (a) if it is an agreement of a description prescribed by the regulations, or
 - (b) in any circumstances so prescribed.
- (4) In section 20 and this section "the consultation requirements" means requirements prescribed by regulations made by the Secretary of State.
- (5) Regulations under subsection (4) may in particular include provision requiring the landlord—
 - (a) to provide details of proposed works or agreements to tenants or the recognised tenants' association representing them,
 - (b) to obtain estimates for proposed works or agreements,
 - (c) to invite tenants or the recognised tenants' association to propose the names of persons from whom the landlord should try to obtain other estimates,
 - (d) to have regard to observations made by tenants or the recognised tenants' association in relation to proposed works or agreements and estimates, and
 - (e) to give reasons in prescribed circumstances for carrying out works or entering into agreements.
- (6) Regulations under section 20 or this section—
 - (a) may make provision generally or only in relation to specific cases,
and
 - (b) may make different provision for different purposes.
- (7) Regulations under section 20 or this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.[...] [FN1]

[FN1] ss.20-20ZA substituted for s.20 subject to savings specified in SI 2004/669 art.2(d)(i)-(vi) by Commonhold and Leasehold Reform Act (2002 c.15), Pt 2 c 5 s 151