



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

**Case reference** : **LON/00BE/LDC/2021/0062**

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

**Property** : **6-8 Bermondsey Square, London SE1  
3UN**

**Applicant** : **Southern Land Securities Limited**

**Representative** : **Karen Young of Together Property  
Management**

**Respondents** : **The leaseholders of 14 flats at 6-8  
Bermondsey Square (as set out in a list  
attached to the application)**

**Type of  
Application** : **Dispensation with statutory  
consultation requirements under  
s.20ZA Landlord & Tenant Act 1985**

**Tribunal  
member(s)** : **Judge N Rushton QC  
Mrs J Mann MCIEH**

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

**Date of hearing** : **21 June 2021**

**Date of decision** : **21 June 2021**

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**DECISION**

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**Covid-19 pandemic: description of hearing**

This has been a remote hearing on the papers which has been consented to or 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, no-one requested the same and all issues could be determined on paper. The documents to which the tribunal were referred were in a bundle of

68 pages, plus associated correspondence with the tribunal, the contents of which have been considered by the tribunal.

### **Decision of the tribunal**

- (1) Dispensation is granted pursuant to section 20ZA of the Landlord & Tenant Act 1985.

### **The application**

1. The Applicant, Southern Land Securities Limited, is the freeholder and landlord in respect of the 14 flats at 6-8 Bermondsey Square, London SE1 3UN (“**the Property**”), which is a terrace plus end of terrace house over 4 floors plus basements. The Applicant acts through its managing agent Karen Young of Together Property Management, PO Box 1319, Enfield EN1 9ZJ (“**Together**”).
2. The Respondents are the leaseholders of the 14 flats, who were identified in a list submitted to the tribunal by the Applicant with the application, including their contact addresses and email addresses, which the tribunal has seen.
3. The tribunal understands that all the flats are held under long leases, although it has not seen specific confirmation of this. A sample lease for flats 3 – 6, 7 and 8 was included in the bundle and it includes provision for the payment by the leaseholder of service charges for among other things repair and maintenance works carried out by the landlord.
4. The Applicant seeks dispensation pursuant to Section 20ZA of the Landlord & Tenant Act 1985 (“**the Act**”) in respect of consultation requirements in relation to certain “**Qualifying Works**” (within the meaning of the Act).
5. The Qualifying Works comprised inspection of the roof by a surveyor with roof access afforded by a cherry picker, temporary flat roof repair works to prevent water ingress at the Property, pending proposed replacement of the flat roof and cleaning blocked gutters. The roof repair works were carried out over 3 days from about 26 February 2021.
6. The only issue is whether it is reasonable to dispense with the statutory consultation requirements.

### **Paper determination**

7. The Application is dated 3 March 2021. Directions were issued by Judge Timothy Cowen on 23 March 2021.

8. Those directions among other things required the Applicant by 13 April 2021 to send each of the leaseholders (and any residential sublessees) by email, hand delivery or first class post: copies of the application form (excluding the list of respondents), the directions, a statement of the amount of costs incurred in respect of the Qualifying Works and the amount intended to be charged to the leaseholders by way of service charges, and copies of the quotes obtained in respect of the Qualifying Works. The directions also required the Applicant to display a copy of the same documents in a prominent place in the common parts of the Property.
9. The directions additionally required the Applicant to confirm in writing by 6 April 2021 that it had authorised Together to make this application and conduct these proceedings. This confirmation was provided by a letter from the Applicant's legal department dated 29 March 2021.
10. By an email dated 13 April 2021 to the tribunal, Ms Young confirmed that all the leaseholders were issued with the required documents by an email on 31 March 2021. She confirmed that a copy of the required documents was also displayed in the common parts on 12 April 2021 and she enclosed photographs showing this.
11. The bundle also enclosed the following prior email correspondence, by which Ms Young had informed the leaseholders of the intended works.
12. On 17 February 2021 Ms Young emailed the leaseholders to tell them that a leak in the roof had developed above one of the flats, causing water ingress, which needed to be dealt with as an emergency. It was anticipated a "tin hat" would have to be erected over the roof to protect it, but a surveyor would be carrying out an inspection using a cherry picker on 19 February 2021. That email included notice of proposed temporary "tin hat" works and said a second notice would be served providing for s.20 consultation in relation to the permanent roof works.
13. Following the surveyor's inspection, Ms Young emailed the leaseholders again on 23 February 2021 to advise that the surveyor had attended. She enclosed a copy of his report, saying a temporary roof repair could be undertaken without the need for a "tin hat". Given the proposed cost, Ms Young said in her email that a dispensation application would be necessary.
14. The bundle includes an estimate from JJGH Builders for the proposed works, for £3,525 plus VAT dated 22 February 2021. This was sent to the leaseholders under cover of the email of 23 February, together with an alternative quote from Trojan Roofing of £3,900 plus VAT (also in the bundle) and the surveyor's report.

15. The surveyor's report is from Raymond Ormiston MRICS of Lewis Berkeley dated 22 February 2021. It confirms he inspected on 19 February via a cherry picker and that the roof above flat 14 was leaking. He also said the roof was beyond practical repair and needed replacing. Pending replacement, a temporary weathering solution was required; a "tin hat" would be excessively expensive; and a temporary repair would be more cost effective. There were also blocked gutters which required cleaning. He estimated the total cost at £3-4k plus VAT (both estimates were therefore in line with this).
16. As stated above, the Qualifying Works were carried out in February 2021. The bundle includes the final invoice from JJGH dated 29 March 2021, which was for £3,310 plus VAT (£3,972 in total), slightly less than the estimate because parking costs were not incurred. Final invoices are also included in the bundle for £1,074 for the cherry picker and £336 for the surveyor's costs, both including VAT.
17. The total cost was therefore £5,382. On 1 March 2021 Ms Young again emailed all the leaseholders, notifying them of the completion of the works. On 3 March 2021, she emailed them a copy of the application to the tribunal. When she emailed the relevant documents to the leaseholders on 31 March 2021, this included a notification that the total cost was £5,382, which would be collected through the service charge, and enclosed the copy invoices.
18. No responses and no objections have been submitted by the Respondents, who have taken no active part in this application.
19. The directions provided that the Tribunal would determine the application on the basis of written representations unless any request for an oral hearing was received by 24 May 2021. No such request has been received. This application has therefore been determined by the Tribunal on the papers supplied by the Applicant.
20. The directions state expressly that the Application only concerns whether it is reasonable to dispense with the statutory consultation requirements and does not concern the issue of whether any service charge costs resulting from the works are reasonable or payable.

### **The law**

21. Section 20ZA of the Act, subsection (1) provides as follows:

*'Where an application is made to a 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.'*

22. The Supreme Court in the case of *Daejan Investments v Benson and others* [2013] UKSC 14 set out certain principles relevant to section 20ZA. Lord Neuberger, having clarified that the purpose of sections 19 to 20ZA of the Act was to ensure that tenants are protected from paying for inappropriate works and paying more than would be appropriate, went on to state *'it seems to me that the issue on which the [tribunal] should focus when entertaining an application by a landlord under section 20ZA(1) must be the extent, if any, to which the tenants were prejudiced in either respect by the failure of the landlord to comply with the requirements'*.

### **Findings of fact**

23. The Application gives the following reasons for seeking dispensation: the Applicant could not allow leakage of water into the Property to continue every time it rained. Dispensation has been sought for the temporary works only, pending replacement of the roof (as to which the Applicant says it has/will carry out ordinary consultation under s.20 of the Act).
24. The details of the two estimates, and the works as in fact carried out and invoiced, are set out above. The Tribunal finds that the works have been carried out, as described in the invoices and photographed, on or shortly after 26 February 2021 (or on 19 February as to the inspection).
25. The s.20 notice of 17 February 2021 invited written observations from the leaseholders by 24 March 2021. There is no evidence that any observations were received from any of the leaseholders, then or subsequently. The works in fact carried out were less extensive and expensive than the works proposed in the notice, but the tribunal does not consider this significant, given (a) the works described were those anticipated when the notice was sent and (b) the leaseholders were given prompt notice of the change and reduction in the proposed works.
26. The Tribunal is satisfied on the basis of the statements in the Application and the documents in the bundle, and in the absence of any representations from the leaseholders, that the Qualifying Works were necessary and urgent in nature, having regard to the risk to the structural integrity of the roof of the Property if they were not urgently carried out.
27. In the absence of any submission from any Respondent objecting to the works, the Tribunal found no evidence that the Respondents would suffer prejudice if dispensation were to be granted.

### **Determination**

28. In the circumstances set out above, the Tribunal considers it reasonable to dispense with consultation requirements. Dispensation is granted pursuant to section 20ZA of the Landlord & Tenant Act 1985.

29. This decision does not affect the Tribunal's jurisdiction upon any future application to make a determination under section 27A of the Act as to the reasonableness and standard of the work and/or whether any service charge costs are reasonable and payable.

**Name: Judge N Rushton QC**

**Date: 21 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).