



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

**Case Reference** : CHI/00HN/LDC/2021/0049

**Property** : Sunset Villa, Old Torwood Road,  
Torquay, Devon, TQ1 1AN

**Applicant** : Sunset Villa Limited

**Representative** : Carrick Johnson Management  
Services Limited

**Respondent** : The Leaseholders

**Representative** :

**Type of Application** : To dispense with the requirement to  
consult lessees about major works section  
20ZA of the Landlord and Tenant Act 1985

**Tribunal Member** : Judge Dovar

**Date of Determination** : 24<sup>th</sup> June 2021

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**DETERMINATION**

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## Background

1. The Applicant seeks dispensation under Section 20ZA of the Landlord and Tenant Act 1985 from the consultation requirements imposed on the landlord by Section 20 of the 1985 Act in respect of proposed remedial works to external cladding at the Property
2. The specific works in respect of which dispensation are sought are:
  - a.) Erecting scaffolding;
  - b.) Removal of render and board back to the existing battens and existing drainage detail over windows. Film protection over windows and doors.
  - c.) Fix Knauf 12.5mm aqua panel to existing battens, SM700 base coat & mesh reinforcement, apply quartzgrund primer and apply coloured 1.5mm Conni S Topcoat (from Marmorit PG2 range only).
  - d.) Fix angle bead, edge beads, insect mesh, fix drainage channel to heads of windows and doors and slip joints at joist zones.
  - e.) Fix intumescent fire break to fill 25mm cavity and repair if necessary.
  - f.) Fix 12.5mm Knauf Aqua Panel to soffit, apply 5mm SM700 with mesh reinforcement. Apply 1.5mm finish coat and one coat of silicone equaliser to feature panels.
  - g.) Extra over to apply additional coat of silicone equaliser to feature panels.
  - h.) Covering of floors prior to scaffold erection and cleaning and removal when scaffold done.
  - i.) Costs will include scaffolding, skips, hoists and any unforeseen works.
  - j.) Removal of all debris and contract clean at end of works.
3. The Property is a five story purpose built block of 14 apartments. The Applicant in its statement of case explains that due to defects in construction significant areas of cladding had not properly bonded and some had fallen away, causing an ongoing risk to safety.
4. A surveyor has been engaged to assess the problem and estimates have been sought from two contractors and it is proposed to place a contract with one of them, McCarthy Contracting and Development Limited; who provided the lowest tender to carry out the works identified above. They have also said that they would be able to commence works relatively quickly once a contract is in place. It appears that the matter is getting more urgent as more cladding falls away.
5. The leaseholders have been consulted (albeit not in compliance with s.20) about the defects and the proposed contract.

6. On 18<sup>th</sup> May 2021, the Tribunal gave directions. The included notice that the Tribunal intended to deal with the matter without a hearing under Rule 31 of the Tribunal Procedure Rules 2013 unless a party objected to that course of action. The Applicant was also directed to serve the application on all the leaseholders as well as an electronic bundle containing details of the proposed works and all quotes obtained for the work by 28<sup>th</sup> May 2021. The leaseholders were given until 8<sup>th</sup> June to respond either by completing a pro forma response or setting out their statement of case. On 28<sup>th</sup> May 2021, no objections having been received, the Tribunal considered that this matter was suitable for determination without a hearing.
7. All 14 have supported this application by indicating the same on the form for respondents; they range in date from 20<sup>th</sup> to 24<sup>th</sup> May 2021.
8. The only issue for the Tribunal is whether or not it is reasonable to dispense with the statutory consultation requirements. **This application does not concern the issue of whether any service charge costs will be reasonable or payable.**

## **DETERMINATION**

9. In the circumstances, in light of the urgency and unanimity of support from all the leaseholders, the Tribunal grants conditional dispensation.
10. This dispensation only relates to the works identified above and for the placing of a contract with McCarthy Contracting and Development Limited.
11. The conditions are that the Applicant is to:
  - provide a copy of this determination to each leaseholder; and
  - provide evidence to the Tribunal that it has served the electronic bundle on all the leaseholders and the date of service.
12. Once those conditions are fulfilled, any remaining requirements of the statutory consultation will be waived.

JUDGE DOVAR

## **Appeals**

A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application to the First-tier Tribunal at the Regional office which has been dealing with the case.

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.

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.

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.