



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

Case Reference : **CAM/11UF/LDC/2021/0022**

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

Property : **1-24 Seven Acre House,
Queensmead Road, High Wycombe
HP10 9XD**

Applicant : **Red Kite Community Housing
Limited**

Respondents : **The leaseholders, named in the
application, of 1, 2, 4, 5, 6 and 9
Seven Acre House**

Type of application : **For dispensation from consultation
requirements - Section 20ZA of the
Landlord and Tenant Act 1985**

Tribunal members : **Judge David Wyatt**

Date of decision : **6 July 2021**

DECISION

Covid-19 pandemic: description of hearing

This has been a remote determination on the papers which the parties are taken to have consented to, as explained below. The form of determination was P:PAPERREMOTE. A hearing was not held because it was not necessary; all issues could be determined on paper. The documents I was referred to are in the bundle of 77 pages prepared by the Applicant. I have noted the contents and my decision is below.

The tribunal's decision

The tribunal determines under section 20ZA of the Landlord and Tenant Act 1985 to dispense with all the consultation requirements in relation to the works described in the application form to replace three cold-water storage tanks in the roof space of the Property.

Reasons for the tribunal's decision

The application

1. The Applicant applied for dispensation from the statutory consultation requirements in respect of qualifying works to replace three cold-water storage tanks in the roof space of the Property.
2. The relevant contributions of the Respondents through the service charge towards the costs of these works would be limited to a fixed sum unless the statutory consultation requirements, prescribed by section 20 of the Landlord and Tenant Act 1985 (the “**1985 Act**”) and the Service Charges (Consultation etc) (England) Regulations 2003:
 - (i) were complied with; or
 - (ii) are dispensed with by the tribunal.
3. In this application, the Applicant seeks a determination from the tribunal, under section 20ZA of the 1985 Act, to dispense with the consultation requirements. The tribunal has jurisdiction to grant such dispensation if satisfied that it is reasonable to do so.
4. In this application, the only issue for the tribunal is whether it is satisfied that it is reasonable to dispense with the consultation requirements. **This application does not concern the issue of whether any service charge costs of the relevant works will be reasonable or payable, or what proportion is payable.**

The property, the parties and the leases

5. The Applicant is the freeholder and landlord of the Property, following transfer of housing stock from the local authority. The Property is described as a self-contained purpose-built three-storey block of 24 flats. The Respondents are the leaseholders of six flats affected by the relevant works.
6. The sample lease produced by the Applicant includes a covenant by the landlord to maintain the retained parts, including the roof and water pipes (clause 4(4)), and a covenant by the leaseholder to pay a fair proportion of the costs and expenses incurred in connection with the

fulfilment of that obligation (clause 3(1), and paragraph 3 of Schedule 4).

Procedural history

7. On 2 June 2021, a procedural judge gave case management directions. These were served, together with copies of the application form, by the tribunal office on the Respondent leaseholders. The directions included a reply form for any leaseholder who objected to the application to return to the tribunal and the Applicant, indicating whether they wished to have an oral hearing. Any such objecting leaseholder was required to respond by 21 June 2021. The directions further provided that this matter would be determined during the seven days commencing 5 July 2021 based on the documents, without a hearing, unless any party requested an oral hearing.
8. No leaseholder has responded and no party has requested an oral hearing. Accordingly, this determination is based on the documents produced by the Applicant in their bundle. On reviewing these documents, which included photographs of the relevant water tanks, the tribunal considered that an inspection of the Property was neither necessary nor proportionate to the issues to be determined and that a hearing was not necessary.

The Applicant's case

9. In the application form, the Applicant described the works needed to replace the tanks in the roof space. These included boarding the working area, isolating and disconnecting the three shared tanks, installing new tanks (one for each flat) and carrying out pipework modifications to connect them. It said the work was urgent because each existing tank held 250 gallons of water (each served three flats), one was leaking into the flat below and could burst, the second tank was in poor condition and it would be sensible to replace the third at the same time to avoid similar problems. It said this could not await consultation and the works were completed on 17 May 2021. On 21 May 2021, the Applicant wrote to the Respondents to describe the works and their estimated contribution (£1,501.68 per flat, from the total estimated cost of £13,515.10 including VAT for the total of nine flats served by the relevant tanks).

The Respondents' position

10. As noted above, the directions provided for any Respondent who wished to oppose the application for dispensation to complete the reply form attached to the directions and send it to the tribunal and the Applicant. The tribunal has not received any response or statement of case opposing the application, or comments on the Applicant's

statements in the application form. In the circumstances, the tribunal concluded that the application was unopposed.

The tribunal's decision

11. This application was not opposed by the Respondents, who have not challenged the information provided by the Applicant, identified any prejudice they might suffer because of the non-compliance with the consultation requirements, or in these proceedings asked for or provided any other information. In the circumstances, based on the information provided by the Applicant, as summarised above, I am satisfied that it is reasonable to dispense with the statutory consultation requirements in relation to the relevant works.
12. **As noted above, this decision does not determine whether the cost of these works was reasonable or payable under the leases, or what proportion is payable under the lease(s), only whether the consultation requirements should be dispensed with in respect of them.**
13. The tribunal determines under section 20ZA of the 1985 Act to dispense with all the consultation requirements in relation to the works described in the application form to replace the three cold-water storage tanks in the roof space of the Property.
14. There was no application to the tribunal for an order under section 20C of the 1985 Act.
15. The Applicant landlord shall be responsible for serving a copy of this decision on all relevant leaseholders.

Name: Judge David Wyatt

Date: 6 July 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).