



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

Case Reference : **LON/00BK/LDC/2021/0284
P:REMOTE**

Property : **Flats 1-24, 65-67 Gloucester
Terrace London W2 3DH**

Applicant : **Gloucester Terrace Ltd**

Representative : **James Andrew Residential Ltd**

Respondents : **Lessees of the flats as named on
the Application**

Representative : **Not represented**

**Type of
Application** : **S20ZA Landlord and Tenant Act 1985**

Tribunal Member : **Judge F J Silverman MA LLM**

**Date of paper
consideration** : **10 January 2022**

Date of Decision : **10 January 2022**

DECISION

The Tribunal determines that it will exercise its discretion to dispense with the consultation requirements imposed by s.20 of the Landlord and Tenant Act 1985 on the grounds that the works proposed by the Applicant are required urgently to maintain the safety of the building for its residents. No objections were received to the application.

REASONS

1. By an application made to the Tribunal on 29 October 2021 the Applicant seeks a determination of its application for dispensation from the consultation requirements imposed by s. 20 of the Landlord and Tenant Act 1985.
2. Directions were issued by the Tribunal on 12 November 2021.
3. This matter was determined by a paper consideration P:REMOTE on 10 January 2022 at which the Tribunal considered the Applicant's application and accompanying documents.
4. The Directions issued by the Tribunal had been sent by the Applicant to all Respondents asking them to respond and to indicate whether or not they opposed the application. No objections were received by the Tribunal.
5. The Applicant applied for dispensation from the statutory consultation requirements in order to undertake urgent work to the property to replace boilers to re-establish provision of heating and hot water to the building and to tank the boiler room to prevent future water damage. The cost of boilers replacement will be covered by the building insurance, the current application relates to the additional work of tanking and waterproofing the boilers' vault which is necessary to prevent similar damage happening in the future after heavy rain. The works could not have been anticipated before occurrence of recent heavy water ingress. The works have already commenced.

6. A first notice under the s20 consultation procedure was served on all leaseholders on 29 October 2021 but , as stated above, no objections to the application have been received from the Respondents.
7. The Applicant seeks dispensation from all consultation requirements as it would not be practical or possible to comply properly with the consultation requirements given the urgency of the works .
8. The supplied estimate from Vertex for the proposed works quotes a price of £6,400 excluding VAT and the application states that the works are qualifying works, which are works that, without a dispensation from the Tribunal, would require the Applicant to follow the consultation requirements set out in section 20 Landlord and Tenant Act 1985 and the Service Charges (Consultation Requirements) (England) Regulations 2003. The costs will be met from the reserve fund. A second estimate from another supplier was rejected by the Applicant on the grounds of its excessive costs.
9. The application is said to be urgent in order to ensure provision of heating and hot water to the building during the winter months especially as some of the older residents in the block rely on constant central heating during this time. The replacement cost of the boilers which are also being replaced will be covered by the building insurance, but the Applicant has been advised that the improvement of the boilers' vault is necessary to prevent similar damage happening in the future after heavy rain.
10. No objections or comments have been received from the Respondents.
11. The Applicant therefore requests the Tribunal to grant a dispensation from compliance with the full requirements of the section in order to allow the sum incurred to be recovered through the service charge.
12. The Tribunal was not asked to inspect the property and in the context of the issues before it and the current Coronavirus guidance did not consider that an inspection of the property would be either necessary or proportionate.
13. The Tribunal is being asked to exercise its discretion under s.20ZA of the Act. The wording of s.20ZA is significant. Subs. (1) 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*” (emphasis added).
14. The Tribunal understands that the purposes of the consultation requirements is to ensure that leaseholders are given the fullest

possible opportunity to make observations about expenditure of money for which they will in part be liable.

15. Having considered the submissions made by the Applicant the Tribunal is satisfied that the works carried out are necessary and urgent and that no undue prejudice will be caused to or suffered by any tenant by the grant of dispensation under s20ZA.
16. This determination does not affect the tenants' rights to apply to the Tribunal challenging the payability or reasonableness of the service charges.

Judge F J Silverman as Chairman
Date 10 January 2022

Note:
Appeals

RIGHTS OF APPEAL

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application by email to rplondon@justice.gov.uk.
2. 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.
3. 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.
4. 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.