



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

Case Reference : **LON/00BK/LDC/2021/0278
P:REMOTE**

Property : **41 Croxley Rd, London, W9 3HJ**

Applicant : **Mr R Sharma and N Sharma**

Representative : **Mr R Sharma**

Respondents : **Ms P F Dale (1)
Mrs & Mrs S Lenthall (2)**

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 not exercise its discretion to dispense with the consultation requirements imposed by s.20 of the Landlord and Tenant Act 1985 for the reasons set out below.

REASONS

1. By an application made to the Tribunal on 21 October 2021 the Applicants seek 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 2 November 2021.
3. This matter was determined by a paper consideration P:REMOTE on 10 January 2022 at which the Tribunal considered the Applicants' application and accompanying documents.
4. The Directions issued by the Tribunal had been sent to all Respondents asking them to respond and to indicate whether or not they opposed the application. No objections had been received by the Tribunal.
5. The Applicants applied for dispensation from the statutory consultation requirements in order to undertake work to the property comprising various repairs to the roof and the erection of scaffolding to enable access to the roof area.
6. The application was accompanied by various estimates/quotes and photographs of a roof area marked up in red ink, presumably to indicate areas of repair. From the documentation supplied it is not clear to the Tribunal precisely what repairs are needed to the roof nor why the repairs are so urgent that they require attention before a proper s20 consultation can be carried out. Further, at no point in the documentation is it clear how much the total cost of works is likely to be.

7. On 20 October 2021 the Applicants sent to both Respondents a notice of intention to do works under s20 i.e. they attempted to commence the s20 consultation procedure and followed this on 21 October with notice to the Respondents of intention to apply for s20ZA dispensation. In neither case did they specify the total cost which the Respondents would be expected to pay nor specify in detail the scope of the works to be carried out.
8. Page 110 of the hearing bundle shows a breakdown of costs incurred between 26 October 2021 and 09 December 2021 totalling £5,610 (£1,870 per flat) it therefore appears that although stating in the application to the Tribunal that the works had not been commenced the Applicants engaged a contractor within a week of filing the application and proceeded with the original and some additional works which it is assumed have now been completed. Although an initial notice under s20 was served on the Respondents there is no evidence that further steps were carried out under the s.20 procedure. The s20 and s20ZA notices contained in the hearing bundle are in themselves unsatisfactory because they do not state the estimated total which the Respondents would be expected to pay nor is there any proper explanation of the works or for the urgency of the works.
9. Despite not having received any objections to the application the Tribunal is not satisfied that the Applicants have demonstrated the reason for the urgency of the works nor that the Respondents were given a full and clear description of the works or of the amount which they would be required to pay for them. Further, a second tranche of the works for which an estimate was only obtained in November (i.e. after the date of the current application to the Tribunal) is not covered by this application and no fresh or amended application has been made in respect of it. (see pages 103,105,108). Management fees incurred by London Land Securities (page 109) were also not included in the original application and appear to have been payable to the Applicant's own company.
10. The Applicants have requested the Tribunal to grant a dispensation from compliance with the full consultation requirements of section 20 in order to allow the sum incurred to be recovered through the service charge.
11. The Tribunal was not asked to inspect the property and in the context of the issues before it and current Coronavirus guidance it did not consider that an inspection of the property would be either necessary or proportionate.
12. 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).

13. 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.
14. Having considered the submissions made by the Applicants the Tribunal is not satisfied that they have demonstrated either that the works carried out are urgent or that failure to carry out the works immediately will cause harm or prejudice to or to be suffered by any tenant. The Tribunal therefore declines to exercise its discretion under s20ZA. This means that the s20 consultation procedures apply in full to these works.
15. 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.

