



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

**Case Reference** : **CAM/26UJ/LDC/2022/0006**

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

**Property** : **Cholesbury By The Wood,  
Carpenders Park, Watford  
Hertfordshire WD19 5AN**

**Applicant** : **Dunsmore Flats Limited**

**Representative** : **Collinson Hall Ltd**

**Respondents** : **All leaseholders of dwellings at the  
Property**

**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** : **1 April 2022**

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**DECISION**

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**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 unpaginated hard copy bundle prepared by the Applicant pursuant to the directions describe below. 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 to repair the roof of the Property.

## **Reasons for the tribunal's decision**

### **The application**

1. The Applicant applied for dispensation with the statutory consultation requirements in respect of qualifying works to repair the roof 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 said the Property was purpose-built in the 1970s and accommodates 21 residential units. The Applicant is the management company under the sample lease provided. The landlord is said to be Kebbell Development Limited.
6. The sample lease produced by the Applicant includes a covenant by the management company to repair the main structure of the building including all roofs (paragraph 1(i) of the Sixth Schedule) and a covenant by the leaseholder to pay a proportion of the costs incurred/estimated (clause 3(A)(i)).

## **Procedural history**

7. On 23 February 2022, I gave case management directions, requiring the Applicant management company to by 4 March 2022 serve on the landlord and the Respondents copies of the application form, a brief description of the works and, if possible, the estimated costs, and the directions.
8. The directions included a reply form for any Respondent 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 (and the landlord, if they wished to be joined to the proceedings to make representations) was required to respond by 18 March 2022. The directions provided that this matter would be determined on or after 1 April 2022 based on the documents, without a hearing, unless any party requested an oral hearing.
9. On 3 March 2022, the Applicant confirmed it had sent the copy documents to the Respondents as directed. These confirmed the roof repair works would include removal and replacement of wind-damaged sections of felt to the roof of Block 10-21. The documents included a copy quotation from A&D Roofing and Building Services Ltd for £12,000 including VAT for the roof repair works. The quotation includes scaffolding, removal of felt from the affected area, new felt and termination bars, a new roof light and making good fascia and soffit boards.
10. No leaseholder has responded to the application and no party has requested an oral hearing. In the circumstances, under rule 31(3) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, I regard the parties as having consented to this matter being determined without a hearing. This determination is based on the documents produced by the Applicant in the bundle they prepared pursuant to the directions. On reviewing these documents, I 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**

11. In the application form, the Applicant said storm damage had been caused in October 2021 and a temporary repair was arranged pending an insurance claim. Since the insurance claim still had not been accepted and, it appears, may not be, the Applicant sought dispensation with the consultation requirements to avoid any further delay in arranging substantive repair work and indicated that it was planning for that work to start in the week commencing 28 February 2022.

### **The Respondents' position**

12. 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 documents provided by the Applicant. In the circumstances, the tribunal concluded that the application was unopposed.

### **The tribunal's decision**

13. 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.
14. **As noted above, this decision does not determine whether the cost of these works was reasonable or payable under the leases, only whether the consultation requirements should be dispensed with in respect of them.**
15. The tribunal determines under section 20ZA of the 1985 Act to dispense with all the consultation requirements in relation to the roof repair works.
16. There was no application to the tribunal for an order under section 20C of the 1985 Act.
17. The Applicant management company shall be responsible for serving a copy of this decision on all relevant leaseholders.

**Name:** Judge David Wyatt

**Date:** 1 April 2022

## **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).