



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

Case Reference : **CAM/11UE/LDC/2022/0030**

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

Property : **South Park Court, 4 South Park,
Gerrards Cross, Buckinghamshire
SL9 8HG**

Applicant : **Oak End Practice Limited**

Representative : **Alba Management Services**

Respondents : **All leaseholders of dwellings at the
Property (including any of their sub-
tenants of any such dwelling) who
are liable to contribute to the cost of
the relevant works**

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

Tribunal member : **Judge Wayte**

Date of decision : **6 October 2022**

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 42 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, namely urgent works in respect of waterproofing tank housing structures located on the roof.

The application

1. The Applicant applied for dispensation from the statutory consultation requirements in respect of additional qualifying works to waterproof water tank housings located on the roof, considered to be necessary by the supervising surveyor following waterproofing works to the roof as a whole.
2. The relevant contributions of the Respondents through the service charge towards the costs of these works would potentially 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. 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 relevant landlord of the Property, which is described in the application as a block of nine purpose-built flats, with two commercial units on the ground floor. The flats are all let on long leases by the Applicant.
6. The lease of flat 6 was produced and it is assumed that all leases are in the same form. By Clause 5 of the lease and the Third Schedule the Applicant covenants to keep and maintain in good and tenantable

repair the main structure of the Building including the roof, subject to payment of the service charge by the tenant.

Procedural history

7. On 25 August 2022, I gave case management directions, requiring the Applicant to serve on the Respondents copies of the application form and the directions. The Applicant confirmed this had been done by letter dated 7 September 2022.
8. The directions included a reply form for any Respondent leaseholder who objected to the application to return to the tribunal and the Applicant by 19 September 2022, indicating whether they wished to have an oral hearing. The directions provided that this matter would be determined on or after 3 October 2022 based on the documents, without a hearing, unless any party requested one.
9. 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, 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

10. The bundle includes correspondence from the Managing Director of the builder chosen to carry out the main roof works and the supervising surveyor. This correspondence confirms that a potential weakness had been discovered in relation to the tank house units and the surveyor recommended that the best option would be to remove the existing cladding to the units and "*do the job properly once and for all*". Photographs in the bundle showed that the cladding to the units was likely to be permeable to water and the base was in particularly poor condition.
11. The builders provided a quote of £7,310 plus VAT to replace the perished timber cladding with PVC to provide a waterproof finish. This quote was accepted by the applicant and the work was being undertaken at the time of the application to ensure that the completed roof works would all be covered by a guarantee.

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 Applicant's statements in the application form. 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, or what proportion is payable under the lease(s), only whether the consultation requirements should be dispensed with in respect of them.**
15. There was no application to the tribunal for an order under section 20C of the 1985 Act.
16. The Applicant landlord shall be responsible for serving a copy of this decision on all relevant leaseholders.

Name: Judge Wayte

Date: 6 October 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).