



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

**Case Reference** : **LON/00BK/LDC/2022/0114**

**Property** : **75-89 Lancaster Gate, London,  
WC2 3NH**

**Applicant** : **The Lancasters Management Ltd**

**Representative** : **Withers LLP**

**Respondents** : **All leaseholders of the premises  
("the tenants")**

**Representative** : **In person**

**Type of Application** : **For dispensation from the  
consultation requirements under  
section 20ZA Landlord & Tenant  
Act 1985**

**Tribunal** : **Mr R Waterhouse BSc (Hons) LLM  
Property Law MA FRICS**

**Date of Decision** : **18<sup>th</sup> October 2022**

---

**DECISION**

---

This has been a remote paper determination, which has been consented to by the parties. A face-to-face hearing was not held because it was not practicable and no one requested same.

The documents the Tribunal were referred to were in a bundle of some 72 pages.

### **Decision**

- (1) The tribunal determines that unconditional dispensation should be granted from the consultation requirements from section 20ZA of the Landlord and Tenant Act 1985 (the Act) in respect of the property 75-89 Lancaster Gate, London, WC2 3NH.**
- (2) We make no determination as to the reasonableness of the costs of same, these being matters which can be considered, if necessary, under the provisions of s27A and s19 of the Act.**

### **The application**

1. This application is the third under this scheme of works, previous applications of 4<sup>th</sup> July 2019 LON/OOBK/LDC/2019/0067 and 21<sup>st</sup> January 2021 LON/OOBK/LDC/2020/0087.
2. The application seeks dispensation from the consultation requirements under section 20ZA of the Landlord and Tenant Act 1985.
3. The application is concerned solely with the question of what consultation if any should be given of the consultation requirements of section 20 of the 1985 for works costing in excess of £250 per flat. It is not concerned with the reasonableness or payability of any service charges which may arise.

### **The hearing**

4. A written application was made by Withers solicitors, who have been appointed by the freeholder, to make this application. The case was decided on paper and no appearances were made. The tribunal considered the written bundle of 311 pages, in support of the application.

### **Background**

5. The property which is the subject of this application is a Grade II listed building, previously comprising 15 terrace houses, each “house has two facades with a flank wall at each end of the building. The building was converted into 75 flats and two leasehold houses in 2007.
6. The applicant in this case is a residents owned company limited by guarantee and is the freeholder. The directors of the applicant are proprietors, of long leases in the subject property. Each of the lessees in the property is a member of the Applicant.
7. This application has been issued because during the course of the qualifying works, it has become apparent that additional works are necessary but were not originally anticipated or discoverable. Therefore, the scope and costs of the render and masonry repairs have now increased and in addition the specification for external decoration changed since the original contract was entered into. Additional work to the roof terraces and roof drainage is also needed.
8. The Applicant previously obtained dispensation from the statutory consultation requirements in relation to the sum of £17,517,381.29. The purpose of this application is to request dispensation for an additional sum of £6,432,649.39. Therefore, it is estimated that the total cost of the works will amount to £23,950,030.68, including professional fees and VAT but this is subject to changes. The reasons for this are set out in full in the application and detailed in the project report prepared by the Applicant's project manager, Gerard Molloy of Arambol LLP, dated 24 January 2022.
9. The Directions dated 27<sup>th</sup> July 2022, provided for the tenants to be given copies of the application form, a brief statement to explain the reasons for the application and display a copy of the directions in a prominent place in the common parts of the property.
11. The Directions also note that any leaseholder who opposes the application should by the 5<sup>th</sup> September 2022 complete the reply form and return it to the tribunal.
12. The only issue for the tribunal is whether or not it is reasonable to dispense with the statutory consultation requirements of section 20 of the 1985 Act. **This application does not concern the issue of whether any service charge costs will be reasonable or payable.**

## **Documents**

13. It is appropriate to record that the tribunal has not received any Reply forms completed by the Respondents, and so there are no objections to the application before us, or representations objecting.

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

14. The tribunal grants dispensation under section 20 ZA of the Landlord and Tenant Act 1985 and the Service Charges (Consultation) (England) 2003 for the works set out in the application.
15. We are, aware of the judgment in Daejan Investments Limited v Benson and others [2013] UKSC 14. The application for dispensation is not challenged.
16. The Supreme Court (Lord Neuberger at para 50) accepted that there must be real prejudice to the tenants. Indeed, the Respondents do not oppose the application. It is accepted that we have the power to grant dispensation on such terms as we think fit. However, the Landlord is entitled to decide the identity of the contractors who carry out the work, when they are done, by whom and the amount. The safety net for the Respondents is to be found in sections 19 and 27A of the Landlord and Tenant Act 1985.
17. Accordingly, we find that unconditional dispensation should be granted. In making our decision we have borne in mind the quotes which we were referred, which in our finding clearly indicate that works are required at the Property.
18. Our decision is in respect of the dispensation from the provisions of s20 of the Act only. Any concern that a Respondent has as to the standard of works, the need for them and costs will need to be considered separately and their position is not affected by our decision on this application.

*Richard Waterhouse*

**Name: Richard  
Waterhouse LLM  
FRICS**                      **18<sup>th</sup>  
October 2022**

### **ANNEX – RIGHTS OF APPEAL**

1. **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 at the Regional Office which has been dealing with the case.**
- 2. 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.**
  - 3. If the application is not made within the 28-day time limit, such application must include a request to 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.**
  - 4. The application for permission to appeal must identify the decision of the Tribunal to which it relates (ie 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**