



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

**Case Reference
HMCTS Code** : **CAM/22UJ/LDC/2023/0003
P:PAPERREMOTE**

Property : **Various residential leasehold
properties for which Harlow
District Council is the freeholder
and lessor**

Applicant : **Harlow District Council**

Respondents : **The leaseholders of the above
properties**

Type of Application : **To dispense with the requirement
to consult leaseholders about a long
term agreement for building
insurance**

Tribunal Member : **Judge Wayte**

Date of Decision : **24 February 2023**

DECISION

Covid-19 pandemic: description of hearing

This has been a remote hearing on the papers. A face-to-face hearing was not held because all issues could be determined in a remote hearing on paper and no hearing was requested. The documents that I was referred to are in a bundle provided by Harlow on 17 February 2023, the contents of which I have noted. The order made is described below.

The Tribunal determines that an order for dispensation under section 20ZA of the 1985 Act shall be made dispensing with all of the consultation requirements as set out in Schedule 2 to the Service Charges (Consultation Requirements) (England) Regulations 2003 (“the Regulations”) in relation to the placing of a new qualifying long term agreement for insurance of Harlow District Council’s leasehold stock.

The application

1. The applicant seeks an order pursuant to s.20ZA of the Landlord and Tenant Act 1985 (as amended) (“the 1985 Act”) for the dispensation of any or all of the consultation requirements in respect of a qualifying long-term agreement for the insurance of its leasehold stock. The application indicated that there are a total of 2579 properties affected, for which the obligation is on Harlow Council as the freeholder/lessor to ensure the properties are adequately insured.
2. The respondents are the leaseholders of those properties who will be responsible for the cost of that insurance as part of their service charge liability.
3. The issue in this case is only whether the consultation requirements of section 20 of the 1985 Act and the Regulations should be dispensed with. If there is any issue as to the cost of the insurance that may be the subject of a separate application under section 27A of the Landlord and Tenant Act 1985.

The background

4. The application was dated 12 January 2023. A degree of urgency was indicated as the Council had been informed that their current insurer was withdrawing from the market on 31 March 2023. Directions were ordered on 26 January 2023. Those directions required the applicant to write to the respondents informing them of the application and the timetable for any objections. The applicant’s bundle contains a copy letter dated 1 February 2023 containing the required information, including confirmation of the process for taking part in the proceedings. Neither the tribunal nor the Council received any formal reply or objection to the proceedings. A number of informal queries were received by the council and a summary was included in the hearing bundle as detailed below.
5. The directions provided that this matter would be considered by way of a paper determination unless a hearing was requested. A hearing was not requested and accordingly the application was considered on the papers on 24 February 2023.

6. The only issue before the Tribunal is whether it should grant dispensation from all or any of the consultation requirements contained in section 20 of the 1985 Act and the Regulations.

The Applicant's case

7. As stated above, on 10 January 2023 the Council were notified by their brokers that their current insurers would not offer insurance after 31 March 2023. That left insufficient time to carry out a consultation process before a new insurance policy could be put in place by 1 April 2023, as the Council wishes to proceed by way of a Long Term Qualifying Agreement of 3 years with an option to extend.

The Respondents' position

8. The directions provided for the respondents to complete the reply form attached to the directions and send it to the tribunal and the Applicant if they wished to object to the application. None were received.
9. The bundle contained a summary of observations from three respondents, made on the council's website. Two of those observations concerned the current policy and in particular queries about whether ongoing claims would be affected. The other was a more general query about the progress of selecting a new provider, the likely cost and the notice given by the current provider.
10. In the absence of any formal response setting out the basis of any objections to dispensation, the tribunal considers that it is, in effect, unopposed.

The Tribunal's decision

14. The Tribunal determines that an order for dispensation under section 20ZA of the 1985 Act shall be made dispensing with all of the consultation requirements in relation to the new contract for the provision on insurance for the relevant properties.

Reasons for the Tribunal's decision

15. The tribunal has the jurisdiction to grant dispensation under section 20ZA of the 1985 Act "*if satisfied that it is reasonable to dispense with the requirements*".
16. The application was effectively unopposed by the leaseholders and insurance must be in place by 1 April 2023, which rules out consultation on the grounds of urgency.

Application under s.20C Landlord and Tenant Act 1985

17. There was no application for any order under section 20C (limiting the ability of the landlord to seek their costs of the application as part of the service charge) before the tribunal.

Name: Judge Wayte

Date: 24 February 2023

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).