



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

**Case Reference** : **MAN/00DA/LDC/2022/0019**

**Property** : **St Ann's Hill, 81 St Ann's Lane, Leeds LS4 2SG**

**Applicant** : **St Ann's Hill Limited**

**Representative** : **Watson Property Management Company**

**Respondents** : **Long Residential Leaseholders at the Property  
(see Annex)**

**Type of Application** : **Landlord & Tenant Act 1985 – Section 20ZA**

**Tribunal Member** : **Judge L Bennett**

**Date of determination** : **6 February 2023**

**Date of Decision** : **6 February 2023**

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**DECISION**

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## **Application**

1. St Ann's Hill Limited applies to the Tribunal under Section 20ZA of Landlord and Tenant Act 1985 (the Act) for dispensation from the consultation requirements of Section 20 of the Act and the Service Charges (Consultation Requirements)(England) Regulations 2003 (SI 2003/1987) in respect of urgent tree works (the Works) carried out at St Ann's Hill (the Property).
2. The Respondents are the Long Residential Leaseholders at the Property and listed at the Annex to this decision.

## **Grounds and Submissions**

3. The application was received by the Tribunal on 21 March 2022.
4. The Applicant is the resident management company with responsibility for the building.
5. The Tribunal did not carry out an inspection but understands that the Property is a single, converted building consisting of four apartments off one communal area. In addition, there are four externally accessed houses that are part of the same building.
6. On 9 June 2022, a Tribunal Judge made directions requiring the service of documents by the Applicant upon each of the Respondents. The directions provided that in the absence of a request for a hearing the application would be determined upon the parties' written submissions. The Applicant's Representative confirmed on 10 November 2022 that the bundle had been served on all of the Respondents.
7. The Applicant has provided a statement explaining why the application was made to the Tribunal together with supporting documents.
8. Following reports to the Managing Agents about 2 trees in the communal grounds that were causing issues, Arborfore Professional Tree Services (APTS) were contacted and attended site to assess the state of the trees. The 2 trees were found to be completely overwhelmed with ivy and dead. APTS recommended that the trees should be removed as a matter of urgency because of their roadside location and the potential for the trees to fall, which is a health and safety issue. APTS also discovered other tree issues on site and provided a report and photographs.
9. It was decided to obtain quotes as a matter of urgency but for the urgent tree works only, so that the necessary actions could be instructed as soon as possible for the safety of the residents. 2 quotations were tendered:

Arborfore Professional Tree Services - £2,640 inc. VAT

Compatible Maintenance Solutions - £3,000 inc. VAT

The Managing Agents wrote to leaseholders on 17 March 2022 informing them of the quotations and also that an application to the Tribunal was being prepared for dispensation from the consultation requirements, because the cost of the works was above the Section 20 threshold and the works were considered to be urgent.

On 16 June 2022, the Managing Agents wrote to all leaseholders to notify them that the first phase of the tree works was to commence on 21 June 2022 and be carried out by Arborfore Professional Tree Services. The duration of the works would be approximately 1 day. Phase 2 was set for 27 June 2022 and be carried out by Arborfore Professional Tree Services. The duration of the works would also be approximately 1 day.

10. The Tribunal did not receive any submissions from a Respondent Leaseholder. Neither the Applicant nor a Respondent requested a hearing.
11. The Tribunal therefore convened without the parties to make its determination on 6 February 2023.

## **Law**

12. Section 18 of the Act defines “service charge” and “relevant costs”.
13. Section 19 of the Act limits the amount payable by the lessees to the extent that the charges are reasonably incurred.
14. Section 20 of the Act states:-  
**“Limitation of service charges: consultation requirements**  
Where this Section applies to any qualifying works..... the relevant contributions of tenants are limited..... Unless the consultation requirements have either:-
  - a. complied with in relation to the works or
  - b. dispensed with in relation to the works by ..... a tribunal.This Section applies to qualifying works, if relevant costs incurred on carrying out the works exceed an appropriate amount”.
15. “The appropriate amount” is defined by regulation 6 of The Service Charges (Consultation Requirements) (England) Regulations 2003 (the Regulations) as “..... an amount which results in the relevant contribution of any tenant being more than £250.00.”
16. Section 20ZA(1) of the Act states:-  
"Where an application is made to a Tribunal for a determination to dispense with all or any of the consultation requirements in relation to any qualifying works ..... the tribunal may make the determination if satisfied that it is reasonable to dispense with the requirements."

## **Tribunal’s Conclusions with Reasons**

17. I have determined this matter following a consideration of the Applicant’s case but without holding a hearing. Rule 31 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 permits a case to be dealt with in this manner provided that the parties give their consent (or do not object when a paper determination is proposed). In this case, the Applicant has given its consent and the Tribunal has not heard from a Respondent in response to the application. Moreover, having reviewed the case papers, I am satisfied that this matter is indeed suitable to be determined without a hearing. Determining this matter does not require me to decide disputed questions of fact.

18. It is not necessary to consider at this stage the extent of any service charges that may result from the works payable under the terms of the Respondents' leases. If and when such is demanded, and if disputed, it may properly be the subject of a future application to the Tribunal.
19. Having considered the submission made by the Applicant I accept the urgent nature of the works. A consultation exercise would have added considerable delay. For the safety of all Residents, a decision was taken to act swiftly and carry out the most necessary urgent works. The Applicant's agent did keep leaseholders informed as to the progress of the works.
20. In **Daejan Investments Ltd v Benson [2013] UKSC 14** it was determined that a Tribunal, when considering whether to grant dispensation, should consider whether the tenants would be prejudiced by any failure to comply with the Consultation Requirements. Balancing the need for urgent action against dispensing with statutory requirements devised to protect service charge paying Leaseholders, I conclude that the urgency outweighs any identified prejudice. Dispensation from consultation requirements does not imply that any resulting service charge is reasonable.

## **Order**

21. The Applicant is dispensed from complying with the consultation requirements in respect of the work specified in the application.

**Laurence J Bennett**  
**Tribunal Judge**  
**6 February 2023**

**Annex - List of Respondent Leaseholders and Unit Number**

<b>Leaseholder</b>	<b>Unit</b>
Mr H Hassan	Flat 1
Ms N Lines	Flat 2
Ms S Lake	Flat 3
Mr R Adams	Flat 4
Mr M Foxwell & Miss A Garrod	House 5
Mr R & Mrs V Preteceille	House 6
Mr M & Mrs S Willey	House 7
Ms Z Warhurst	House 8