



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

Case reference : **LON/00AW/LDC/2022/0223**

HMCTS code : **P: PAPER REMOTE**

Property : **93 Lexham Gardens, London, W6 6JN**

Applicant : **Ninety Three Lexham Gardens
Management Ltd**

Representative : **TLC Estate Agents (Sean Stock)**

Respondents : **The five leaseholders of 93 Lexham
Gardens, London, W6 6JN**

Type of application : **Dispensation with Consultation
Requirements under section 20ZA
Landlord and Tenant Act 1985**

Tribunal member : **Judge Robert Latham**

Venue : **10 Alfred Place, London WC1E 7LR**

Date of decision : **15 May 2023**

DECISION

The Tribunal grants this application to dispense retrospectively with the consultation requirements imposed by section 20 of the Landlord and Tenant Act 1985 without condition in respect of works to the flat roof coverings.

Covid-19 pandemic: description of hearing

This has been a remote hearing which has not been objected to by the parties. The form of remote hearing was P:PAPER REMOTE. The Directions provided for the application to be determined on the papers unless any party requested a hearing. No party has requested a hearing. The applicant has filed a bundle in support of the application.

The Application

1. On 18 November 2022, the Applicant manager applied for retrospective dispensation from the statutory duty to consult in respect of various repairs to the flat roof covering at 93 Lexham Gardens, London, W6 6JN ("the Property").
2. The Property is a mid-terrace five storey Victorian building which has been converted to form 5 (formally 7) self-contained flats. Water ingress into the top flat was showing in multiple locations. The application stated that initial investigations had commenced by instructed roofing contractors in order to establish the exact cause of the water ingress and the proposed remedial works. At that stage, there are no details of costings or the exact nature of the repairs. It was said that the urgent nature of the repairs was necessary in order to make the building watertight following significant water damage to the upper floor flats.
3. At p.22-23 of the Bundle, the Applicant has provided a number of quotations and invoices: (i) on 13 August 2021, London Roofing Limited provided quotes for two options, £2,420 + VAT to coat the party wall with Sika Liquid Plastics or £1,660 + VAT to coat the party wall with resin; (ii) on 24 November 2022, Gary Norris invoiced £235 for decorative works; and (iii) on 15 February 2023, Phoenix Construction London invoiced £5,370.48 in respect of works to the roof chimney pots and clay vents. The total cost of the works is not entirely clear.
4. On 21 December 2022, the Tribunal issued Directions. The Directions stated that the Tribunal would determine the application on the papers, unless any party requested an oral hearing. No party has done so.
5. By 3 February 2023, the Applicant was directed to send to the leaseholders by email, hand delivery or first-class post: (i) copies of the application form (excluding any list of respondents' names and addresses) unless already sent by the applicant to the leaseholder/sublessee; (ii) If not already detailed in the application form a brief statement to explain the reasons for the application and a statement of costs to be incurred and (iii) the directions. The Applicant was further directed to display a copy of these in a prominent place in the common parts of the property. On 12 January 2023, the Applicant confirmed that it had complied with this Direction.

6. By 24 February 2023, any leaseholder who opposed the application was directed to complete a Reply Form which was attached to the Directions and send it both to the Tribunal and to the Applicant. The leaseholder was further directed to send the Applicant a statement in response to the application. No leaseholder has returned a completed Reply Form opposing the application.
7. The Applicant has provided a Bundle of Documents (40 pages) in support of the application. It has also provided a copy of the lease for Flat 3.
8. Section 20ZA (1) of the Act provides:

“Where an application is made to the appropriate tribunal for a determination to dispense with all or any of the consultation requirements in relation to any qualifying works or qualifying long term agreement, the tribunal may make the determination if satisfied that it is reasonable to dispense with the requirements.”
9. **The only issue which this Tribunal has been required to determine is whether or not it is reasonable to dispense with the statutory consultation requirements. This application does not concern the issue of whether any service charge costs will be reasonable or payable.**
10. The Tribunal is satisfied that it is reasonable to grant retrospective dispensation from the statutory consultation requirements. This is justified by the urgent need for the works. There is no suggestion that any prejudice has arisen. In the circumstances, it is appropriate to grant dispensation without any conditions.
11. The Directions make provision for the service of the Tribunal’s decision. The Tribunal will email a copy of its decision to the Applicant. The Applicant is responsible for serving a copy of the Tribunal’s decision on the Respondents.

Judge Robert Latham
15 May 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 **by e-mail** 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).