



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

**Case reference** : **CAM/00KF/LDC/2023/0013**

**Applicant** : **Utilitymove Limited**

**Representative** : **Warwick Estates (Charlotte Strickson)**

**Respondents** : **All leaseholders of dwellings at the Property**

**Property** : **Prittle House 485B Fairfax Road, Westcliff on Sea, Essex SSo 9RQ**

**Type of Application** : **For dispensation of the consultation requirements under s.20ZA Landlord and Tenant Act 1985**

**Tribunal member(s)** : **Judge Stephen Evans**

**Date of decision** : **24 May 2023, on paper**

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**DECISION**

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**The Tribunal determines that an order for unconditional dispensation under section 20ZA of the 1985 Act shall be made dispensing with all the consultation requirements.**

## **The Application**

1. The Applicant is the landlord of Prittle House, 485B Fairfax Drive, Westcliff-on-Sea, Essex SSo 9RQ (“the Property”). This is a purpose built 2 storey block of 8 flats, with a small grass area surrounding, one entrance door to the hallway, and one flight of stairs. There is a small car park and garages to the rear.
2. The Applicant seeks an order pursuant to s.20ZA of the Landlord and Tenant Act 1985 (as amended) (“the 1985 Act”) for the retrospective dispensation of consultation requirements in respect of qualifying works carried out.
3. The Respondents are the leaseholders of the Property.
4. The grounds given in the Application were written by the representative of the Applicant, Warwick Estates Ltd, and set out the following:

“The roof has missing tiles and is leaking into flat 7. I've had two quotes through both are over the section 20 limit. Due to damage this is causing in flat 7 I have preceded with the cheapest quote of £2652.00”.

And

“I have obtained 2 quotes and have spoken to the landlord regarding this”.

5. As to why dispensation is being sought, the Applicant further writes:

“The works are above the section 20 limit. Apply for dispensation to remove the consultation. As it will cause event more damage in flat 7. Water is leaking into flat 7 so works need to be completed ASAP.”
6. The Tribunal directions note that this is a retrospective application for dispensation.
7. In accordance with Tribunal directions, the Applicant wrote to all leaseholders to inform them of this Application. By email dated 30 March 2023, the Applicant informed the Tribunal that all residents of the Property had been served with the directions.
8. The Tribunal directions provided for leaseholders who opposed the Application to complete the Reply form and a statement of case.
9. None of the Respondent leaseholders have replied to the Tribunal raising an objection to the Application.
10. The Tribunal’s directions also 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 today.

11. The Tribunal did not consider that an inspection was necessary, nor would it have been proportionate to the issues in dispute.

### **The issue**

12. 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. **The Application does not concern the issue of whether any service charge costs will be payable or reasonable.**

### **Relevant Law**

13. The consultation requirements pursuant to s.20 of the Landlord and Tenant Act 1985 apply to qualifying works and qualifying long term agreements. This case concerns the former.
14. The consultation requirements must be complied with, and if they are not complied with, or if compliance has not been dispensed with by the Tribunal, the amount of the relevant costs incurred on carrying out the works is limited to £250 per leaseholder, as the limit currently stands.
15. The consultation requirements applicable in this case are those contained in Schedule 4 Part 2 (Qualifying Works – no public notice) of the Landlord and Tenant Act 1985.
16. In summary, these require:
  - A Notice of Intention by the landlord and opportunity for representations by leaseholders
  - Estimates to be obtained
  - Landlord must supply to each leaseholder and recognised tenants' association a statement giving details of at least two estimates, at least one from a wholly unconnected person and including any estimate received from a nominated person, and provide a summary of observations received and his response to them
  - Landlord must give notice to each leaseholder and recognised tenants' association specifying time and place where all the estimates can be inspected and invite observations as above and must have regard to any observations made
  - On entering into a contract for the carrying out of the qualifying works, the landlord must give notice to the leaseholders and any recognised tenants' association.

17. 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”.

### **The Tribunal’s decision**

18. The Tribunal determines that an order for unconditional dispensation under section 20ZA of the 1985 Act shall be made dispensing with the consultation requirements.

### **Reasons for the Tribunal’s decision**

19. 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”. The Tribunal has also had regard to the leading case of *Daejan Investments Ltd v Benson* [2013] UKSC 14, which confirmed that when considering an Application under section 20ZA, the Tribunal should focus on the extent, if any, to which the leaseholders are prejudiced by the failure to comply with the consultation requirements, in either paying for inappropriate works or paying more than would be appropriate as a result of the failure by the landlord to comply with the regulations.
20. The Tribunal takes into consideration that these were urgent works, against the factual background of water ingress into one of the 8 flats. As there are two 30 day periods of consultation under the consultation requirements, allowing for the time needed to obtain estimates, the whole process would have been likely to take at least three months. It is understandable that the Applicant could not wait that long in this case.
21. Lastly, by way of observation only, it would appear that the cost of the works is low. The threshold limit for s.20 consultation in this case would seem £2000 (8 x £250), assuming leaseholders pay the same, and the works here cost just £652 above that limit.
22. In considering the lessees’ position, the Application has not been opposed by any of the Respondents. There is no ostensible prejudice to the Respondents. Whilst the costs of the works are £2652, as stated above, this Application does not concern the issue of whether any service charge costs which the Applicant may demand in relation to the roof works will be reasonable or payable.
23. In the circumstances, the Tribunal is satisfied that it is appropriate to grant an order for dispensation as sought.
24. In accordance with the directions dated 22 March 2023, the Applicant is responsible for serving a copy of this decision on all leaseholders.

## **Application under s.20C**

25. There was no Application for an order under s.20C of the 1985 Act before the Tribunal.

**Name:** Tribunal Judge S Evans

**Date:** 24 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 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).