



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

Case Reference : **CAM/00KF/LDC/2022/0034**

**HMCTS code
(paper, video, audio)** : **P: PAPERREMOTE**

Property : **35 Tintern Avenue, Westcliff on Sea,
SSo 9QJ**

Applicant : **Unipro Projects Limited**

Representative : **Warwick Estates**

Respondents : **1.Ms V.A.Buckland (35)
2.Ms Halliday (35A)**

Type of application : **For dispensation from consultation
requirements - Section 20ZA of the
Landlord and Tenant Act 1985**

Tribunal member : **Judge Wayte**

Date of decision : **5 January 2023**

DECISION

Covid-19 pandemic: description of hearing

This has been a remote determination on the papers which the parties are taken to have consented to, as explained below. The form of determination was P:PAPERREMOTE. A hearing was not held because it was not necessary; all issues could be determined on paper. The documents I was referred to are in the bundle of 66 pages prepared by the Applicant. I have noted the contents and my decision is below.

The tribunal's decision

The tribunal determines under section 20ZA of the Landlord and Tenant Act 1985 to dispense with all the consultation requirements in relation to the works described in the application form, namely works to repair and re-render a chimney stack to address water ingress causing damp and damage to the top floor flat.

The application

1. The Applicant applied for dispensation from the statutory consultation requirements in respect of additional qualifying works to the chimney stack, following a section 20 consultation exercise carried out to investigate issues with water ingress to the top floor flat at the property.
2. The relevant contributions of the Respondents through the service charge towards the costs of these works would potentially be limited to a fixed sum unless the statutory consultation requirements, prescribed by section 20 of the Landlord and Tenant Act 1985 (the “**1985 Act**”) and the Service Charges (Consultation etc) (England) Regulations 2003:
 - (i) were complied with; or
 - (ii) are dispensed with by the tribunal.
3. The Applicant seeks a determination from the tribunal, under section 20ZA of the 1985 Act, to dispense with the consultation requirements. The tribunal has jurisdiction to grant such dispensation if satisfied that it is reasonable to do so.
4. In this application, the only issue for the tribunal is whether it is satisfied that it is reasonable to dispense with the consultation requirements. **This application does not concern the issue of whether any service charge costs of the relevant works will be reasonable or payable, or what proportion is payable.**

The property, the parties and the leases

5. The Applicant is the relevant landlord of the Property, which is described in the application as a house which was converted into two flats in 2013. The property is described as being of standard construction with a pitched tile roof covering the building.
6. The lease of flat 35A on the first floor was produced and it is assumed that both leases are in the same form. By Clause 6 of the lease and the Sixth Schedule, the Applicant covenants (subject to payment of the service charge) to provide Services including the decorating, repairing and replacing of the Retained Parts, which include the roof and roof structures.

Procedural history

7. On 1 December 2022, the tribunal gave case management directions. The directions included a reply form for any Respondent leaseholder who objected to the application to return to the tribunal and the Applicant by 12 December 2022, indicating whether they wished to have an oral hearing. The directions provided that this matter would be determined on or after 4 January 2023 based on the documents, without a hearing, unless any party requested one.
8. No leaseholder has responded and no party has requested an oral hearing. Accordingly, this determination is based on the documents produced by the Applicant in their bundle. On reviewing these documents, I considered that an inspection of the Property was neither necessary nor proportionate to the issues to be determined and that a hearing was not necessary.

The Applicant's case

9. The bundle includes the original section 20 consultation carried out in respect of the investigative works, with an estimated cost of £3,446.40 including VAT. Although some repairs to the render and chimney were anticipated, once access was obtained to the roof the contractor notified the agent that further work was required at an additional sum of £1580 + VAT.
10. The supporting statement in the Applicant's bundle confirms that as the scaffolding was already in place it was more cost effective to continue with the works rather than remove the scaffolding and re-consult. It was also important to resolve the issue with water ingress to the top floor flat as soon as possible and therefore the additional works were authorised and have now been completed.
11. The statement continues to confirm that the leaseholders were kept informed throughout and that no objections had been received to the application for dispensation.

The Respondents' position

12. As noted above, the directions provided for any Respondent who wished to oppose the application for dispensation to complete the reply form attached to the directions and send it to the tribunal and the Applicant. The tribunal has not received any response or statement of case opposing the application, or comments on the Applicant's statements in the application form. In the circumstances, the tribunal concluded that the application was unopposed.

The tribunal's decision

13. In the circumstances, based on the information provided by the Applicant (as summarised above), I am satisfied that it is reasonable to dispense with the statutory consultation requirements in relation to the relevant works.
14. **As noted above, this decision does not determine whether the cost of these works was reasonable or payable under the leases, or what proportion is payable under the lease(s), only whether the consultation requirements should be dispensed with in respect of them.**
15. There was no application to the tribunal for an order under section 20C of the 1985 Act.

Name: Judge Wayte

Date: 5 January 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).