



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

Case Reference	:	CAM/26UD/LDC/2023/0031
HMCTS code (paper, video, audio)	:	P: PAPERREMOTE
Property	:	7 Ware Road, Hertford, SG13 7DY
Applicant	:	J D Thornton, manager appointed by the tribunal
Respondents	:	The freeholder and leaseholders named in the application
Type of application	:	For dispensation from consultation requirements - Section 20ZA of the Landlord and Tenant Act 1985
Tribunal member	:	Judge Wayte
Date of decision	:	7 August 2023

DECISION

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; namely, emergency works to erect scaffolding, cover the roof structure to make it water tight, remove the defective chimney and install a tiled roof over the opening.

The application

1. The Applicant applied for dispensation from the statutory consultation requirements in respect of qualifying works to the roof of the property, which was said to be in a dangerous condition. In particular, a structure on the roof had become decayed and dangerous, as had the chimneys. The works were carried out at the end of June 2023 and the cost was £12,828 including VAT.
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 retrospectively 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 tribunal appointed manager of the Property, which consists of two flats above a commercial take away. The Property is Victorian and the defective structure on the roof was originally a decorative feature (described in the leases as an observation tower) but has now fallen into disrepair.
6. Copies of the leases and a deed of variation were provided which establishes that it is the freeholder’s responsibility to maintain the roof, including the observation tower, subject to a contribution from the leaseholders.

Procedural history

7. On 26 June 2023, the tribunal gave case management directions. The directions included a reply form for any respondent who objected to the

application to return to the tribunal and the Applicant by 18 July 2023, indicating whether they wished to have an oral hearing. The directions provided that this matter would be determined on or after 1 August 2023 based on the documents, without a hearing, unless any party requested one.

8. The directions required the Applicant to serve the application and directions on the respondents. On 26 June 2023, the Applicant confirmed that he had emailed the application to the leaseholders that day. Neither leaseholder has responded and no party has requested a hearing. On a review of the bundle, I considered that the application could be dealt with in accordance with the overriding objective on the papers alone.

The Applicant's case

9. The Applicant confirmed in the application form that the contractor had found some large panes of glass and slates in the gutter that had fallen from the observation tower. Thankfully, the debris had been caught by the gutter and not fallen on the road and pavement below. The contractors had recommended the removal of the tower as it was decayed and dangerous but due to planning requirements it was boarded over and covered in felt to make it watertight. The chimney was equally in poor condition and therefore this was also removed and the opening roofed over. Photographs were provided in the bundle which clearly showed the poor state of repair prior to the works which were completed by 3 July 2023. The cost was covered by the reserves.

The Respondents' position

10. 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. No responses were received by the Applicant or the tribunal. In the circumstances, the tribunal concluded that the application was unopposed.

The tribunal's decision

11. 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.
12. **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.

13. There was no application to the tribunal for an order under section 20C of the 1985 Act.

Name: Judge Wayte

Date: 7 August 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).