



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

Case reference : **LON/00AN/LDC/2023/0171**

Property : **40 Mablethorpe Road Fulham London
SW6 6AH (“the subject property”)**

**Landlord
/Applicant** : **Southern Land Securities Limited**

Representative : **Together Property Management Limited**

**Tenants/
Respondents** : **Wedge Investments
Mr T Caffyn and Ms J Stitchbury**

Representatives : **None**

Type of Application : **Dispensation from consultation
requirements under section 20ZA of the
Landlord and Tenant Act 1985**

Tribunal : **Mr Charles Norman FRICS**

Date of Decision : **5 September 2023**

DECISION

Decision

1. Dispensation in respect of costs of repair to the front boundary wall of the subject property is **GRANTED UNCONDITIONALLY**.

Reasons

Background

2. On 2 June 2023 the landlord/applicant applied for retrospective dispensation from the statutory consultation requirements in respect of costs to repair the front boundary wall at the subject property. This followed an assessment and was said to be urgent as the wall bounded a local authority footpath. The estimated cost as set out by Lexicon Circle Ltd (estimate #382 of 11 May 2023) was for £714.00, including VAT. The property comprises a mid-terraced house dating from circa 1880, now divided into two flats.
3. On 12 July 2023, the Tribunal set the case down for determination by written representations unless any party objected, which none did. The tenants/respondents were invited to serve objections if they so wished, using a proforma form appended to the directions.

The Landlords/Applicants' Case

4. The works were required for safety reasons as the wall was adjacent to a local authority footpath. The lessees had requested the work. The quote was sent to the lessees who had agreed the cost. No lessee had objected to the application.

The Tenants/Respondents' case

5. None of the tenants/respondents responded to the application.

The Law

6. Section 20ZA is set out in the appendix to this decision. The Tribunal has discretion to grant dispensation when it considers it reasonable to do so. In addition, the Supreme Court Judgment in *Daejan Investments Limited v Benson and Others* [2013] UKSC 14 empowers the Tribunal to grant dispensation on terms or subject to conditions.

Findings

7. The Tribunal finds that the requisite works were urgent, and that the landlord/applicant has acted reasonably in dealing with this matter. It notes that none of the tenants/respondents have objected to the application. The Tribunal has identified no prejudice suffered by the tenants/respondents as a result of the application.

8. Therefore, dispensation under section 20ZA is granted unconditionally in respect of the consultation requirements for these works.

9. However, this decision has no bearing on the question of the reasonableness of costs to be incurred or their payability. The Tribunal makes no findings in relation to those matters.

Mr Charles Norman FRICS
Valuer Chairman

5 September 2023

ANNEX - RIGHTS OF APPEAL

- The Tribunal is required to set out rights of appeal against its decisions by virtue of the rule 36 (2)(c) of the Tribunal Procedure (First-tier Tribunal)(Property Chamber) Rules 2013 and these are set out below.
- If a party wishes to appeal against 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.

Appendix

Section 20ZA Landlord and Tenant Act 1985

(1) 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.

(2) In section 20 and this section—

“qualifying works” means works on a building or any other premises, and

“qualifying long term agreement” means (subject to subsection (3)) an agreement entered into, by or on behalf of the landlord or a superior landlord, for a term of more than twelve months.

(3) The Secretary of State may by regulations provide that an agreement is not a qualifying long term agreement—

- (a) if it is an agreement of a description prescribed by the regulations, or
- (b) in any circumstances so prescribed.

(4) In section 20 and this section “the consultation requirements” means requirements prescribed by regulations made by the Secretary of State.

(5) Regulations under subsection (4) may in particular include provision requiring the landlord—

- (a) to provide details of proposed works or agreements to tenants or the recognised tenants’ association representing them,
- (b) to obtain estimates for proposed works or agreements,
- (c) to invite tenants or the recognised tenants’ association to propose the names of persons from whom the landlord should try to obtain other estimates,
- (d) to have regard to observations made by tenants or the recognised tenants’ association in relation to proposed works or agreements and estimates, and
- (e) to give reasons in prescribed circumstances for carrying out works or entering into agreements.

(6) Regulations under section 20 or this section—

- (a) may make provision generally or only in relation to specific cases, and
 - (b) may make different provision for different purposes.
- (7) Regulations under section 20 or this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.