



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

Case reference : **LON/00AW/LDC/2023/0156**

HMCTS code : **P:PAPER REMOTE**

Property : **75 Harrington Gardens, London, SW7
4JZ**

Applicant : **75 Harrington Gardens Limited**

Representative : **TLC Estate Agents**

Respondents : **The 10 Leaseholders at
75 Harrington Gardens**

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 : **25 September 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 urgent remedial works to a structural beam in the ceiling of the basement flat.

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 8 June 2023, the Applicant landlord applied for retrospective dispensation from the statutory duty to consult in respect of urgent remedial works to a structural beam in the ceiling of the basement flat. The beam was said to be degrading and in urgent need of repair as it was holding up the 5 stories of the building. It had been inspected by a structural engineer and surveyor and work were to begin as soon as possible. On 5 July 2023, the Tribunal sent a copy of the application to the ten leaseholders.
2. The application relates to 75 Harrington Gardens, London, SW7 4JZ ("the Property"). This is a five storey purpose built block of flats constructed in the 1900s. There are ten residential flats with a single internal staircase.
3. On 7 February 2023, the Applicant obtained a detailed report from Delva Patman Redler ("DPR"), surveyors. The report investigated the cause of dampness to the lower ground floor flat. On 7 May 2023, the Applicant served a Stage 1 Notice of Intention on the leaseholders. The proposed works were described as the "replacement or repair of main structural steel beam at ground floor level inclusive of any associated remedial works identified". In its application form, the Applicant states that it had instructed the leaseholder's preferred contactor. DPR were to supervise the works. The Applicant decided that undue delay would be caused were it go through the further stages of the statutory consultation Procedures.
4. The Tribunal understands that the works were completed on 13 July 2023. On 25 July 2023, Rethink Construction Ltd submitted an invoice for £8,916, (inc VAT). David Joseph Consulting, structural engineers, have submitted an invoice for £1,500, dated 18 July 2023. DPT have submitted two invoices: £1,310.40, dated 30 April 2023, for preparing their original report, and £2,211.30, dated 31 May 2023, for supervising the works.
5. On 3 July 2023, 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.

6. By 24 July 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 provided in the application, a brief statement to explain the reasons for the application; 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.
7. On 5 July 2023, the Applicant confirmed that it had delivered a copy of the application and the directions to the building and placed copies on the main entrance table within the entrance hall. The Applicant did not send a copy of the application form to the leaseholders as the tribunal had done this.
8. By 31 August 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.
9. The Applicant has provided a Bundle of Documents (230 pages) in support of the application. It has also provided a copy of the lease for Flat 2.
10. 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.”
11. **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.**
12. 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.
13. 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
25 September 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).