



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

Case reference : **LON/00AF/LDC/2023/0246**

Property : **311 High Street, Orpington, BR6 0NN**

Applicant : **Tzedokoh Vechesed Ltd**

Representative : **Seddons Law LL**

Respondents : **(1) Hyde Housing Association Limited
(2) Lauren Christian Guy Lefevre
(3) Koasara Anuoluwapo Abimbola Lasoye
(4) Amy Louise Robson**

Representative : **N/A**

Type of application : **Application seeking dispensation from consultation – section 2ZA of the Landlord and Tenant Act 1985**

Tribunal member : **Judge Tagliavini**

Venue : **10 Alfred Place, London WC1E 7LR**

Date of decision : **4 December 2023**

DECISION

The tribunal's decision

1. The tribunal grants the Applicant dispensation from the consultation required by section 20 of the Landlord and Tenant Act 1985 in respect of the Initial Works required by the enforcement notice served by the London Borough of Bromley and including the removal and reinstatement of electrics and CCTV cameras.
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The application

2. This is an application seeking the tribunal's grant of dispensation from the statutory consultation requirements, in respect of works required by the service by the London Borough of Bromley of a Dangerous Structure Notice dated 2 May 2023 under section 77 of the Building Act 1984 ('the Notice'), requiring remedial works to obviate the danger posed by falling and cracking render to be carried out within 28 days of the service of the Notice ('the Initial Works').

The background

3. The Applicant is the freehold owner of a building known as and situate at 311 High Street, Orpington, BR6 0NN ("the Building"). The Building is a purpose built block comprising of two commercial units on the ground floor, a Community 'village' hall on the first floor and 19 residential flats on the second to fourth floors ('Upper Floors') which are subject to a Headlease and let by the applicant to Hyde Housing Association Limited, pursuant to a Lease dated 17 October 2008 ('the Headlease').
4. The Headlease is subject to three registered leases in respect of flats 16, 17 and 18 which are demised to the Second Respondent, the Third Respondent and the Fourth Respondent respectively. The lease of flat 16 is dated 12 August 2014, the lease of flat 17 is dated 12 December 2014 and the lease of Flat 18 is dated 26 June 2015. All three leases are largely in common form and together are referred to as 'the Flat Leases.'
5. Although, the Applicant has no direct contractual relationship with the Second Third and Fourth Respondents, the First Respondent, is obliged to (inter alia) keep in repair the main structure of the Building and this obligation is subject to and has dealt with maintenance matters informally with the First Respondent and would notify the First Respondent of the issue being repaired and/or the expense incurred and historically the First Respondent would arrange payment. In this instance, the applicant informed the First Respondent of the need for works on 15 May 2023 followed by information provided by the Applicant in respect of the proposed Initial Works and the need for additional works.

6. However, this application is concerned only with the grant of dispensation for works and does not concern itself either with the payability or reasonableness of the proposed additional works.

The hearing

7. As none of the parties requested an oral hearing, the application was determined on the documents provided by the applicant in 6 separate bundles comprised of 335 (electronic) pages.
8. The Applicant asserted it proceeded with consultation in respect of the Initial Work on an informal basis as this how it had conducted matters previously with the First Respondent, without receiving any objection. At no stage until after the costs had been incurred and paid for by the Applicant did the First Respondent raise any issue about the manner in which the Applicant had dealt the works, although the First Respondent gave notice to its occupiers of the works and was kept informed by the Applicant throughout. The Applicant was transparent in the steps it took to investigate and rectify the issue which it was obligated to carry out pursuant to the Notice and the need for Initial Works.
9. Since issuing this application, the Applicant has not received any objections from the Respondents regarding the issue of dispensation from consultation. Similarly, the tribunal has not received any correspondence from the Respondents setting out any objections or identifying any substantive prejudice that would be caused, were dispensation from consultation granted by the tribunal.
10. In support of its applicant, the Applicant asserts it carried out the Initial Works pursuant to the Notice served by the London Borough of Bromley. For the reasons stated in the Notice, there was a clear urgency to carry out the Initial Works and the Applicant risked prosecution if it did not take steps to complete the Initial Works. The First Respondent was kept informed at all stages of the works being carried out and the urgency and at no time did the First Respondent object to the Initial Works or the quotations provided as the email correspondence from Mark Brown at Hyde Housing do not represent objections to the Initial Works, but rather simply states that proof of dispensation is required. Further, both the Applicant and the First Respondent kept the occupiers (including the Second to Fourth Respondents) informed of the works.
11. The Applicant also asserted that to the extent that the tribunal may consider there has been a failure to comply with the consultation requirement, the Applicant asserts the First Respondent has not identified any prejudice and there is no evidence of prejudice before the Tribunal. Further, it appears the First Respondent has only requested a section 20 Notice after a request for payment was made, notwithstanding the Applicant consulted with the First Respondent albeit by email.

12. The Applicant also informed the tribunal that after the initial Works to make the Building safe were carried out in July 2023, all subsequent Works were put on hold due to the First Respondent failing to pay and a s20 notice was served on the Respondents by letter dated 27 October 2023 and will be followed by a Statement of Estimates for the additional works comprising:
- (i) Provision of scaffolding to the rear elevation including balconies to front and rear elevations;
 - (ii) Render removal and replacement of render to rear elevation including the balconies to the front elevations using Licata render only system;
 - (iii) Removal and reinstatement of existing electrics and CCTV cameras;
 - (iv) Protection of all existing windows and external doors ('the Additional Works').
13. However, this application for dispensation is concerned only with the request for dispensation in respect of the Initial Works and does not include in its determination the consultation carried out in respect of the Additional Works, for which dispensation has not been sought in this application.

The tribunal's reasons

14. The tribunal accepts the need for works to the Building were urgent and did not allow for statutory consultation to be carried out in respect of the Initial Works. The tribunal accepts the Respondents were kept informed throughout for the need for these urgent works and did not express any reservation to the works or the absence of formal consultation until a request for payment by the First Respondent was made.
15. In the absence of any objection from the Respondents identifying any substantive prejudice caused by the absence of the statutory consultation required in respect of the Initial Works, the tribunal considers it is reasonable and appropriate to grant the dispensation from consultation sought by the Applicant.
16. Therefore, the tribunal grants the Applicant dispensation from the consultation required by section 20 of the Landlord and Tenant Act 1985 in respect of rendering and associated works required by the enforcement notice served by the London Borough of Bromley and including the removal and reinstatement of electrics and CCTV cameras in accordance with quotation from Scupi Interior Ltd dated 29 June 2023.

Name: Judge Tagliavini

Date: 4 December 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 should be made on Form RP PTA available at <https://www.gov.uk/government/publications/form-rp-pta-application-for-permission-to-appeal-a-decision-to-the-upper-tribunal-lands-chamber>

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).