



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

Case Reference : **LON/00AE/LDC/2023/0098**

Property : **6 Brondesbury Road, London, NW6
6AS**

Applicant : **6 Brondesbury Road Limited,
represented by Ringley Law**

Respondents : **The leaseholders**

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

Tribunal Members : **Judge Professor R Percival
Mr A Parkinson MRICS**

Venue : **Remote paper determination**

Date of Decision : **5 September 2023**

DECISION

Decisions of the tribunal

- (1) The Tribunal, pursuant to section 20ZA of the Landlord and Tenant Act 1985 (“the 1985 Act”), grants retrospective dispensation from the consultation requirements in respect of the works the subject of the application.

Procedural

1. The landlord submitted an application for dispensation from the consultation requirements in section 20 of the Landlord and Tenant Act 1985 (“the 1985 Act”) and the regulations thereunder, dated 4 April 2023.
2. The Tribunal gave directions on 13 July 2023. The directions provided for a form to be distributed to those who pay the service charge to allow them to object to or agree with the application, and, if objecting, to provide such further material as they sought to rely on. The application and directions was required to be sent to the leaseholders and any sublessees, and to be displayed as a notice in the common parts of the property. The deadline for return of the forms, to the Applicant and the Tribunal, was 10 August 2023.
3. The Applicant confirmed that the relevant documentation had been sent to the leaseholders and displayed as required by the directions.
4. No response from any of the leaseholders has been received by the Tribunal.

The property and the works

5. The property is a Victorian house converted into eight flats.
6. The works are roof repairs. The Applicant’s property manager, in a witness statement dated 21 July 2023, reports that the roof is leaking and causing significant damage to the top flat. The leak, the surveyor reports “has gone through a large crack and is dangerously affecting the electrics which are stationed close by”. She goes on to suggest that there are fears that the leaks could affect other flats on the top floor, and endanger more electrics. The approximate value of the works is given at £55,000.

Determination

7. The relevant statutory provisions are sections 20 and 20ZA of the Landlord and Tenant Act 1983, and the Service Charges (Consultation

etc)(England) Regulations 2003. They may be consulted at the following URLs respectively:

<https://www.legislation.gov.uk/ukpga/1985/70>

<https://www.legislation.gov.uk/uksi/2003/1987/contents/made>

8. The Tribunal is concerned solely with an application under section 20ZA of the 1985 Act to dispense with the consultation requirements under section 20 and the regulations.
9. In an application for retrospective dispensation, we would expect to see a clear account of the nature of the roof, the defect, a clear and precise description of the damage being caused or likely to be caused, and at least a brief description of the repair works required. It would also be helpful to have a quotation for the works. But if that is not possible, and an estimate is provided, some explanation of how that estimate was arrived at should also be provided. However, despite the imprecision in the witness statement, we are prepared to accept that there was an urgent need to undertake the work as soon as possible.
10. In any event, no response has been received from any of the leaseholders objecting to the application. It is therefore clear that the leaseholders have not sought to claim any prejudice as a result of the consultation requirements not having been satisfied. Where that is the case, the Tribunal must, quite apart from any question of urgency, allow the application: *Daejan Investments Ltd v Benson and others* [2013] UKSC 14; [2013] 1 WLR 854.
11. This application relates solely to the granting of dispensation. If the leaseholders consider the cost of the works to be excessive or the quality of the workmanship poor, or if costs sought to be recovered through the service charge are otherwise not reasonably incurred, then it is open to them to apply to the Tribunal for a determination of those issues under section 27A of the Landlord and Tenant Act 1985.

Rights of appeal

12. 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 London regional office.
13. The application for permission to appeal must arrive at the office within 28 days after the Tribunal sends written reasons for the decision to the person making the application.
14. If the application is not made within the 28 day time limit, the 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 these reason(s) and decide whether to allow the application

for permission to appeal to proceed despite not being within the time limit.

15. The application for permission to appeal must identify the decision of the Tribunal to which it relates, 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.

Name: Judge Prof Richard Percival **Date:** 5 September 2023