



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

Case reference : **LON/00BE/LDC/2022/0023P**

Property : **185-189 Southampton Way, London
SE5 7EJ**

Applicant : **Southern Land Securities Limited**

Representative : **Nick Hristov of Together Property
Management, the Applicant's
managing agents**

Respondents : **The leaseholders of the Property**

Type of application : **Dispensation from compliance with
statutory consultation
requirements**

Tribunal members : **Judge P Korn
Mr S Mason FRICS**

Date of decision : **27 April 2022**

DECISION

Description of hearing

This has been a remote hearing on the papers. The form of remote hearing was **P**. An oral hearing was not held because the Applicant confirmed that it would be content with a paper determination, the Respondents did not object and the tribunal agrees that it is appropriate to determine the issues on the papers alone. The documents to which we have been referred are in an electronic bundle, the contents of which we have noted. The decision made is described immediately below under the heading “Decision of the tribunal”.

Decision of the tribunal

The tribunal dispenses unconditionally with the consultation requirements in respect of the qualifying works which are the subject of this application.

The application

1. The Applicant seeks dispensation under section 20ZA of the Landlord and Tenant Act 1985 (“**the 1985 Act**”) from the consultation requirements imposed on the landlord by section 20 of the 1985 Act in relation to certain qualifying works.
2. Together Property Management was originally named as ‘Applicant’ in the application. However, as Together Property Management are simply the landlord’s managing agents and as the leases are two-party leases the correct Applicant is the company named as landlord in the application, Southern Land Securities Limited. Accordingly, Southern Land Securities Limited is hereby substituted as the Applicant in place of Together Property Management.
3. The qualifying works which are the subject of this application relate to the replacement of missing and broken roof slates and the making good of damage caused by a leak.
4. The Property is a Victorian block comprising 9 self-contained flats constructed over 3 floors.

Applicant’s case

5. The Applicant states that its managing agents were informed by a leaseholder that some roof slates were missing. On inspection, the roofer found broken slates to the front of the Property.
6. Due to the height of the Property a scaffold had to be erected to carry out the works and a scaffolding licence was required. To minimise any internal damage to the Property the Applicant’s managing agents were of the view that they needed to proceed without delay on the basis of

the one quotation obtained from Hamilton Roofing for £2,450 + VAT to erect a scaffold and to proceed with replacing the roof tiles.

7. The Applicant has now completed the works, including making good internal damage to a ceiling caused by the roof having started to leak.
8. In the view of the Applicant's managing agents as per the statement of case, if they had waited to go through the statutory consultation process before carrying out the works this would have led to more damage being caused to the Property and therefore to greater expense in remedying the damage. On the application form, but not in the statement of case, the Applicant's managing agents also refer to the health and safety risks of not dealing urgently with a leaking roof.

Responses from the Respondents

9. The Applicant states that there have been no submissions from the Respondents objecting to the application or objecting to the works themselves.

The relevant legal provisions

10. Under Section 20(1) of the 1985 Act, in relation to any qualifying works *"the relevant contributions of tenants are limited ... unless the consultation requirements have been either (a) complied with ... or (b) dispensed with ... by ... the appropriate tribunal"*.
11. Under Section 20ZA(1) of the 1985 Act *"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..., the tribunal may make the determination if satisfied that it is reasonable to dispense with the requirements"*.

Tribunal's analysis

12. We note that the Applicant appears not to have complied with any of the statutory consultation requirements. In addition, there seems to be slight confusion as to whether the reason for the urgency was a health and safety concern or the risk of increased expenditure or both.
13. However, as is clear from the decision of the Supreme Court in *Daejan Investments Limited v Benson and others (2013) UKSC 14*, the key issue when considering an application for dispensation is whether the leaseholders have suffered any real prejudice as a result of the failure to comply with the consultation requirements.

14. In this case, none of the Respondents has expressed any objections in relation to the failure to go through the statutory consultation process, and there is no evidence before us that the leaseholders were in practice prejudiced by the failure to consult. Furthermore, on the basis of the information before us, it is plausible for the Applicant's managing agents to have concluded that a delay to the works would lead to a health and safety problem and/or greater expense being incurred.
15. The tribunal has a wide discretion as to whether it is reasonable to dispense with the consultation requirements, and on the facts of this case in the light of the points noted above we consider that it is reasonable to dispense with the consultation requirements.
16. As is clear from the decision of the Supreme Court in *Daejan v Benson*, even when minded to grant dispensation it is open to a tribunal to do so subject to conditions, for example where it would be appropriate to impose a condition in order to compensate for any prejudice suffered by leaseholders. However, as noted above, there is no evidence nor any suggestion that the leaseholders have suffered prejudice in this case.
17. Accordingly, we grant unconditional dispensation from compliance with the consultation requirements.
18. However, it should be noted that this determination is confined to the issue of consultation and does not constitute a decision on the reasonableness of the cost of the works.

Costs

19. There have been no cost applications.

Name: Judge P Korn

Date: 27 April 2022

RIGHTS OF APPEAL

- A. If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber) a written application for permission must be made to the First-tier Tribunal at the regional office dealing with the case.
- B. 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.
- C. If the application is not made within the 28 day time limit, such application must include a request for extension of time and the reason for not complying with the 28 day time limit; the Tribunal will then look at such reason and decide whether to allow the application for permission to appeal to proceed despite not being within the time limit.
- D. 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.