



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

Case reference : **LON/00BE/LDC/2023/0071**

HMCTS code : **P: PAPER REMOTE**

Property : **70 East Dulwich Grove, London,
SE22 8PS**

Applicant : **Orchidbase Limited**

Representative : **Michael Richards & Co
(managing agents)**

Respondents : **The five Leaseholders of 70 East
Dulwich Grove**

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 : **22 November 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 works to the chimney stacks and flashing which were executed in December 2022.

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 7 March 2023, Michael Richards and Co, the managing agents for the landlord, Orchidbase Limited, applied for retrospective dispensation from the statutory duty to consult in respect of urgent works to the roof at 70 East Dulwich Grove, London, SE22 8PS ("the Property").
2. 70 East Dulwich Grove is a three storey Victorian building which has been converted to create five flats. In 2022, there were on-going issues with guttering. On 6 December 2022, the landlord had a contractor on site to complete repairs to the guttering, soffits & fascia boards & roof (including scaffolding). These works costs £1,250 which fell below the level of £250 per tenant which would have imposed a statutory duty to consult. Whilst the contractor was on site, he identified that further works required to the chimney stacks and flashing. These works were not apparent until the contractor was on the roof. The contractors quoted £1,950 for these works. This triggered the statutory duty to consult. These additional works needed to proceed as quick as possible as the scaffold was already up. The works were completed on 20 December 2022.
3. On 9 November 2022, the landlord wrote to the leaseholders to inform them know the original quote of £1,250 for the guttering repairs and advised them that it was the landlord's our intention to go ahead with this work as soon as possible. The lessees were invited to respond within 7 days if they opposed the works; none did so. On 13 December, the landlord again wrote to the leaseholders to inform them of the additional works that had been identified and the further estimate of £1,950 that had been provided. Again, the lessees were invited to respond within 7 days if they opposed the works; none did so. The works were executed on 20 December.
4. On 11 October 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.
5. By 17 October 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. The Applicant has confirmed that it has complied with this direction.

6. By 1 November 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.
7. The Applicant has provided a Bundle of Documents (50 pages) in support of the application. It has also provided a copy of the lease for Top Floor Flat.
8. 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.”
9. **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.**
10. 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.
11. 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
22 November 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).