



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

**Case Reference** : **CAM/00KF/LDC/2024/0037**

**Property** : **Havengore House, Elm Road  
Leigh on Sea, Essex SS9 1SS**

**Applicant** : **Havengore House  
(Leigh on Sea) Limited**

**Representative** : **Sorrell (Managing Agent)**

**Respondents** : **Leaseholders who may be liable to  
contribute towards the relevant  
costs at the Property**

**Representative** : **None**

**Landlord** :

**Type of Application** : **S20ZA of the Landlord and Tenant  
Act 1985 - dispensation of  
consultation requirements**

**Tribunal** : **N. Martindale FRICS**

**Hearing Centre** : **Cambridge County Court, 197 East  
Road, Cambridge CB1 1BA**

**Date of Decision** : **19 August 2024**

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**DECISION**

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## **Decision**

1. The Tribunal grants dispensation from the requirements on the applicant to consult all leaseholders under S.20ZA of the Landlord and Tenant Act 1985, in respect of the qualifying works referred to.
2. At the date of application it was stated that work had not been started. It was understood that the management company's agent was able to recharge costs under the service charge provisions to all leaseholders in the Property.

## **Background**

3. The landlord applied to the Tribunal under S20ZA of the Landlord and Tenant Act 1985 ("the Act") for the dispensation from all or any of the consultation requirements contained in S20 of the Act.
4. The application related to the commissioning of works at the Property which appeared to concern urgent but, otherwise small scale repairs to the water and/or space heating systems to the whole Property.

## **Directions**

5. Directions dated 15 July 2024 were issued by Regional Judge Wayte of the Tribunal, without an oral hearing. They provided for the Tribunal to determine the application on or after 14 August 2024, unless a party applied on or before 7 August 2024 for a hearing. No request was received by the Tribunal.
6. The applicant, was to send to each of the leaseholders of the dwellings at the Property; a copy of the application form, brief description of the works, an estimate of the costs of the works including any professional fees and VAT and anything else relied upon and, the Directions.
7. The applicant was to file with the Tribunal a letter by 26 July 2024, confirming how and when it had been done.
8. Leaseholders who objected to the application were to send a reply form and statement to the Tribunal and applicant, by 7 August 2024. The applicant was to prepare a bundle of documents including the application form, Directions, sample lease and all other documents on which they wanted to rely; all responses from leaseholders, a certificate of compliance referred to above; with 2 copies to the Tribunal and one to each respondent leaseholder and do so by 12 August 2024.

9. In the event, the Tribunal did not receive any requests for a hearing, nor did it receive any forms in support of or objection to respondents either directly or indirectly via the bundle.
10. The Tribunal determined the case on the bundle received from the applicant, only.

### **Applicant's Case**

11. The application, dated 21 June 2024, at box 4 appears to confirm that the Property is a purpose built block of 20 flats, laid out on 5 floor levels.
12. The application at box 7 confirms that these are to be qualifying works but that they had not been started. At box 9 the applicant was content for paper determination and applied for it, at box 10, to be dealt with by Fast Track, and did claim it was urgent because as stated; *"intermittent loss of water supply to the building"*.
13. The application at 'Grounds for seeking dispensation', box 1. stated: *"Replacing the water booster pump that supplies water to the development. Works to be carried out immediately."*
14. The application at box 2. below this, described the consultation that had been carried out or is proposed to be carried out; *"Works have been discussed with directors and permission granted to proceed immediately."*
15. The application at box 3. explained why they sought dispensation of all or any of the consultation requirements. *"Water is supplied to the development via tanks on site using the current pump booster set which is failing on a regular basis. We had had several temporary repairs undertaken, however the manufacturer has now confirmed due to the age to the age of the pump set, the parts are now obsolete and a full replacement required. Should we enter the usual, 60 day notice period, we run the risk of the existing booster set failing in its entirety leaving no water supply to the development – x20 domestic units/ flats."*
16. The applicant included further documents:
17. 1. Invoice SI-182297 of May 2024 for a 'Service Call Out' at £316.80
18. 2. Invoice SI-182986 of May 2024 for a 'Service Call Out' at £331.20
19. 3. Invoice SI-183940 of June 2024 for a 'Service Call Out' at £331.20.
20. 4. Invoice SI-183961 of June 2024 for a 'Service Call Out' at £441.60.

21. 5. Invoice SI-184626 of July 2024 for a Service Call Out at £331.20.
22. 6. Invoice SI-184830 of July 2024 for a Service Call Out at £230.00.
23. A Quotation QT 57829 of 28 May 2024 for 'Replace Water Booster Set' at £11,532.70 net of VAT.
24. Invoice SI-185728 of July 2024 for supply delivery and labour in replacing the 'water booster set' for £11532.70 plus VAT at 20%.
25. The Tribunal concludes from this last item that the works have been undertaken, completed and now billed for payment.

### **Respondent's Case**

26. The Tribunal did not receive any objections or other representations from the leaseholders, either through the applicant, or directly from them.

### **The Law**

27. S.18 (1) of the Act provides that a service charge is an amount payable by a tenant of a dwelling as part of or in addition to the rent, which is payable for services, repairs, maintenance, improvements or insurance or landlord's costs of management, and the whole or part of which varies or may vary according to the costs incurred by the landlord. S.20 provides for the limitation of service charges in the event that the statutory consultation requirements are not met. The consultation requirements apply where the works are qualifying works (as in this case) and only £250 can be recovered from a tenant in respect of such works unless the consultation requirements have either been complied with or dispensed with.
28. Dispensation is dealt with by S.20 ZA of the Act which provides:-  
**“Where an application is made to a leasehold valuation 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.”**
29. The consultation requirements for qualifying works under qualifying long term agreements are set out in Schedule 3 of the Service Charges (Consultation Requirements) (England) Regulations 2003 as follows:-

**1(1) The landlord shall give notice in writing of his intention to carry out qualifying works –**

- (a) to each tenant; and**
- (b) where a recognised tenants' association represents some or all of the tenants, to the association.**

**(2) The notice shall –**

- (a) describe, in general terms, the works proposed to be carried out or specify the place and hours at which a description of the proposed works may be inspected;**
- (b) state the landlord's reasons for considering it necessary to carry out the proposed works;**
- (c) contain a statement of the total amount of the expenditure estimated by the landlord as likely to be incurred by him on and in connection with the proposed works;**
- (d) invite the making, in writing, of observations in relation to the proposed works or the landlord's estimated expenditure**
- (e) specify-**
  - (i) the address to which such observations may be sent;**
  - (ii) that they must be delivered within the relevant period; and**
  - (iii) the period on which the relevant period ends.**

**2(1) where a notice under paragraph 1 specifies a place and hours for inspection-**

- (a) the place and hours so specified must be reasonable; and**
- (b) a description of the proposed works must be available for inspection, free of charge, at that place and during those hours.**

**(2) If facilities to enable copies to be taken are not made available at the times at which the description may be inspected, the landlord shall provide to any tenant, on request and free of charge, a copy of the description.**

**3. Where, within the relevant period, observations are made in relation to the proposed works or the landlord's estimated expenditure by any tenant or the recognised tenants' association, the landlord shall have regard to those observations.**

**4. Where the landlord receives observations to which (in accordance with paragraph 3) he is required to have regard, he shall, within 21 days of their receipt, by notice in writing to the person by whom the observations were made state his response to the observations.**

## **Tribunal's Decision**

30. The scheme of the provisions is designed to protect the interests of leaseholders and whether it is reasonable to dispense with any particular requirements in an individual case must be considered in relation to the scheme of the provisions and its purpose.
31. The Tribunal must have a cogent reason for dispensing with the consultation requirements, the purpose of which is that leaseholders who may ultimately pay the bill are fully aware of what works are being proposed, the cost thereof and have the opportunity to nominate contractors where there is no public procurement.
32. The correspondence showed that the applicant complied generally with Directions.
33. The terms of this dispensation from the requirements of Section 20, are:
34. That this only covers the supply delivery and labour in replacing the 'Water booster Set'. Additional works if any are not included in this dispensation application. No dispensation for any prior report, fees, nor ancillary work is given because it was not specifically sought. Those costs will be subject to the annual cap of £250.
35. This dispensation does not extend to any other works at the Property. This is because they do not form part of this application.
36. The applicant will meet all of its costs arising from the making and determination of this application. However these costs can be recovered from any leaseholder as service charge and/ or as an administrative charge if the lease of each unit allows for it.
37. **In making its determination of this application, it does not concern the issue of whether any service charge costs are reasonable or indeed payable by the leaseholders. The Tribunal's determination is limited to this application for dispensation of consultation requirements under S20ZA of the Act; in this case, on terms.**

## **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 either party is dissatisfied with this decision, they may apply for permission to appeal to the Upper Tribunal (Lands Chamber) on any point of law arising from this Decision.

Prior to making such an appeal, an application must be made, in writing, to this Tribunal for permission to appeal. Any such application must be made within 28 days of the issue of this decision to the person making the application (regulation 52 (2) of The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rule 2013).

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).