



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

Case reference : **LON/00AP/LDC/2023/0292**

HMCTS code : **P:PAPERREMOTE**

Property : **24-26A Ewart Grove, London N22 5NX**

Applicant : **Marshlease Limited**

Representative : **Michael Richards & Co**

Respondents : **1. J.R. Pancholi
2. K. Holness
3. Sharon Luke
4. Mountview Estates Plc**

Representative :

Type of application : **An Application for a Dispensation
Order pursuant to section 20ZA of the
Landlord and Tenant Act 1985**

Tribunal members : **JUDGE SHAW**

Venue : **PAPER DETERMINATION**

Date of decision : **9th April 2024**

DECISION

Description of hearing

This has been a remote determination on the papers which has not been objected to by the parties. The form of remote hearing code and description was: P:PAPERREMOTE. A face-to-face hearing was not held because none of the parties requested such a hearing, and all the issues could be determined in a remote hearing, on paper. The documents submitted to the Tribunal will, as necessary, be referred to below, and all papers submitted have been perused and the contents considered. The order made is described at the end of these reasons.

Decision of the tribunal

The tribunal determines that an order dispensing with the consultation provisions under section 20 of the Landlord and Tenant Act 1985, is appropriate in this case, and makes such order.

The application

1. The application is dated 24th November 2023 and the Applicant seeks a determination pursuant to s.20ZA of the Landlord and Tenant Act 1985 (“the 1985 Act”).

The hearing

2. The Applicant sought a Paper Hearing, which was, as stated above, not objected to by the Respondents.

The background

3. The Property is a purpose built 2 storey building which contains 4 flats. The Applicant landlord has applied retrospectively for dispensation from the statutory consultation requirements in respect of roof works and associated works to a chimney stack. During 2022 water ingress was reported from the roof, and an initial notice was served on 21st July 2022, upon the Respondents, in respect of what was then thought to be the necessary works of repair. The works were to be carried out by Xtra Maintenance Limited, all as particularised in the helpful narrative and supporting documentation in the bundle supporting this application.
4. In the event, when the matter was investigated, far more extensive works were required, involving relaying of the covering on the roof, and other works all as particularised in the final invoice dated 13th March 2023 of the contractors who eventually carried out the work, namely Stormproof Limited. The cost was £11,700

inclusive of VAT. The Applicant had already collected some funds for earlier works which did not in fact take place, and once credit was given for this and some other deductions, the balance due was £10,254.

5. The Applicant contends that it was not practical to follow the full consultation process required under section 20 of the Act, given the urgency of the works, but nonetheless the leaseholders have been kept informed in writing throughout during 2022/23. The relevant correspondence all appears in the supporting bundle of documentation referred to above.
6. The application has been supported by a full explanation of the background together with the relevant documentation. This was sent to all leaseholders as part of the overall documentation which was also made available in accordance with the Directions of the Tribunal issued on 10th January 2024. The Respondents were given the opportunity to challenge the application by 28th February 2024. So far as the Tribunal is aware, none of the leaseholders have raised any objections to this application for dispensation, nor in respect of the works generally.

The Issues

7. The sole issue in this case is whether the tribunal is satisfied that it is reasonable for the tribunal to dispense with the consultation provisions (section 20 of the Act) which would otherwise have applied to the qualifying works at the property, as described below.

The tribunal's decision

8. The tribunal determines that it is reasonable to dispense with the consultation provisions of section 20 of the Act, pursuant to section 20ZA thereof, and in relation to the roof works set out in the invoice of Stormproof Limited referred to above. A dispensation order to this effect is therefore made, as set out below.

Reasons for the tribunal's decision

9. As mentioned, Directions in this case were given on 10th January 2024. In those Directions, the Respondent leaseholders were given the opportunity both to request an oral hearing and to object to the application for dispensation.. No such request has been received by the Tribunal, nor has the Tribunal been notified of any objection

from any of the leaseholder Respondents. Steps were taken promptly after the initial report of water penetration was made. The Tribunal is satisfied on the evidence before it that it was reasonable to act before formal statutory consultation, because the defective roof covering and maintenance of the chimney stack were both aspects of work which could, had the process run its full course, resulted in avoidable damage and increased costs. The Tribunal is also satisfied that no prejudice has been caused to the Respondents, as described in the Supreme Court decision of *Daejan Investments v Benson 2013*.

10. DECISION

For the reasons set out above, the tribunal determines that it is reasonable to dispense with the consultation provisions of section 20 of the Act, pursuant to section 20ZA thereof, and in relation to the burst water main works described above. A dispensation order to this effect is therefore made. It should be understood that nothing in this Decision precludes the entitlement of the Respondents to challenge the cost, quality, reasonableness or payability of service charges for these works, under the provisions of section 27A of the Act, should they have reason or the desire to do so.

Name: JUDGE SHAW

Date: 9th April 2024

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 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.