



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

**Case reference** : **LON/00AN/LDC/2024/0087**

**Property** : **93 Hammersmith Grove, London,  
W6 0QN**

**Applicant** : **Southern Land Securities**

**Representative** : **Warwick Estates (Hailey Bull)**

**Respondents** : **Mrs Iva Dyer  
Mr Andrew Grant  
Ms Tara Swart  
Mrs Joanna Armstrong  
Mrs Mandy Smith  
Miss Mariva Pocekutova**

**Type of application** : **Dispensation with Consultation  
Requirements under section 20ZA  
Landlord and Tenant Act 1985**

**Tribunal members** : **Judge Robert Latham  
Appollo Fonka FCIEH**

**Venue** : **10 Alfred Place, London WC1E 7LR**

**Date of decision** : **11 September 2024**

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**DECISION**

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The Tribunal grants this application to dispense with the consultation requirements imposed by section 20 of the Landlord and Tenant Act 1985 without condition, namely for the “roof works required surrounding the skylight in the roof”. An estimate has been provided from Xtra Maintenance,

dated 23 February 2024 in the sum of £6,115.08 inc VAT) in respect of these works.

### **The Application**

1. By an application, dated 14 March 2024, the Applicant applies for dispensation from the statutory duty to consult. The application has been issued by Warwick Estates, the managing agent for the landlord. The application relates to 93 Hammersmith Grove, London, W6 0NQ (“the Property”). The Property is described as a mixed development comprising one commercial and six residential flats.
2. The Respondents to this application are the six leaseholders: (1) Mrs Iva Dyer (Third Floor Flat); (2) Mr Andrew Grant (Basement Flat and Garden); (3) Ms Tara Swart (Ground Floor Studio Flat); (4) Mrs Joanna Armstrong (First Floor Flat and Roof Terrace); (5) Mrs Mandy Smith; (Second Floor Flat and Roof Terrace); and (6) Miss Mariva Pocekutova (Third Floor Flat). SSB Management Limited occupy the ground floor shop and are not parties to this application. It seems that Miss Mariva Pocekutova is the only leaseholder who occupies her flat.
3. The statutory duty to consult is part of the statutory armoury to protect leaseholders from paying excessive service charges. Section 20 of the Landlord and Tenant Act 1985 imposes an obligation on a landlord to consult where the relevant contribution of any leaseholder will exceed £250. There are circumstances where works will be urgent and will preclude a landlord from embarking upon the full statutory consultation procedures which will take several weeks. In such circumstances, section 20ZA of the Act permits a landlord to apply for dispensation. However, this Tribunal still expects a landlord to follow the spirit of the legislation, consulting to the extent that time permits and seeking to secure best value is secured by testing the market. In a case of emergency, the landlord would be expected to proceed with the works and seek retrospective dispensation. This Tribunal has standard procedures for dealing with dispensation applications. However, these only work if a landlord provides accurate information and complies with the Directions given by the Tribunal.
4. Considerable confusion has arisen in this case because the Applicant has issued two applications relating to similar works relating to this Property.
5. On 14 February 2024, the Applicant (Ms Sadie Murphy) issued an application seeking dispensation. The Grounds for seeking dispensation were stated to be: “There is a leak which is affecting the second floor flat and Roof Terrace. The work required were to carry out gully/gutter clearance and also a sealant to be applied around the affected areas. This required two workmen” (“the gully works”). An invoice was provided from Xtra Maintenance, dated 15 February 2024 in the sum of

£1,290.37 exc VAT (£1,548.44 inc VAT). It thus seemed that retrospective dispensation was being sought for works which had been executed to remedy the damp problem. The application stated that no consultation had been carried out. The Tribunal allocated Case Reference LON/00AN/LDC/2024/0059 to this application. On 20 March 2024, the Tribunal issued Directions. On 8 July 2024, the Tribunal (Judge Tueje and Mr Wheeler) determined this application and granted unconditional retrospective dispensation.

6. On 19 March 2024, the Applicant (Ms Hailey Bull) issued this current application seeking dispensation which is dated 14 March 2024. Ms Bull's email which accompanied the application made no reference to the previous application or how the two sets of work related to each other. The Grounds for seeking dispensation were stated to be: "Roof Works required surrounding the skylight in the roof as is leaking and is affecting the communal hallway and also the inside of the third floor flat" ("the roof works"). An estimate was provided from Xtra Maintenance, dated 23 February 2024 in the sum of £5,095.90 exc VAT (£6,115.08 inc VAT). The Applicant did not indicate whether the works had been put in hand.
7. The application form also requires the landlord to specify the following:
  - (i) Any Consultation that has been carried out or is proposed to be carried out: The Applicant states: "Notice of intention will be issued imminently".
  - (ii) Why the applicant is seeking dispensation with all or any of the consultation requirements: The Applicant states: "works exceed section 20 threshold".
  - (iii) Whether there are any special reasons for urgency: The Applicant states "no". The Applicant does not ask for the case to be allocated to the fast track.
8. The Tribunal allocated Case Reference LON/00AN/LDC/2024/0087 to this application. On 26 March, the Tribunal requested payment of the requisite fee of £100. On 17 April, the Tribunal confirmed that the fee had been received. On 24 April, Ms Murphy informed that there had been no objection to the dispensation application. She enclosed an email from Miss Mariva Pocekutova, dated 27 March. However, she did not alert the Tribunal to the fact that this related to the gully works in LON/00AN/LDC/2024/0059.
9. On 7 May 2024, the Tribunal issued Directions in LON/00AN/LDC/2024/0087. The works were described as "repairs to the leak affecting the second floor flat and roof terrace. Carry out gully/gutter clearance and application of sealant to the affected areas".

It is to be noted that these are the gully works specified in LON/ooAN/LDC/2024/0059, rather than the roof works specified in LON/ooAN/LDC/2024/0087.

10. On 8 May 2024, the Tribunal sent a copy of these Directions to the parties. On 4 June 2024, 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.
11. The Directions had directed the Applicant by 21 May to email to the Respondents a copy of the application form, a brief description of the works and the directions. The Applicant was further directed to display a copy of these in a prominent place in the common parts of the property.
12. It seems that the Applicant did not comply with this Direction. Rather, on 13 May, the Applicant wrote to the Tribunal stating that it had issued two sets of Directions in respect of the same works. However, the Applicant did not alert the Tribunal to the fact that they had issued two separate applications in respect of very similar works, each of which had been allocated separate case references.
13. A Procedural Judge reviewed the correspondence. Further confusion arose as the Applicant had issued a similar application in respect of emergency works to abate dampness at 91 Hammersmith Grove (Case Reference: LON/ooAN/LDC/2024/0086). On 27 June 2024, the Case Office requested the Applicant to provide Bundles for both these applications at the same time.
14. On 8 July 2024, Ms Bull notified the Tribunal that they had received the Tribunal's decision in LON/ooAN/LDC/2024/0059. However, they had not received Directions in respect of the roof works and were unsure what was to be included in the LON/ooAN/LDC/2024/0087 Bundle.
15. On 10 July, the Tribunal sent the Applicant a copy of the application and the Directions in LON/ooAN/LDC/2024/0087. On 17 July, Ms Bull responded requesting Directions in respect of the roof works, as the Directions rather related to the gully works. On 2 August, the Tribunal sent the Applicant a copy of the Directions which had been issued on 7 May. On 6 August, Ms Bull responded that the dates specified in the Directions had now passed.

16. On 22 August 2024, the case was reviewed by a Procedural Judge whose views were communicated to the Applicant in respect of the current application:

“On the information currently provided in this application, if it came before me, I would dismiss it. The Applicant needs to state why, in the case of routine, non-urgent works, there has been no consultation and seemingly no tendering/different quotes for the works.”

17. On 28 August 2024, the Applicant responded:

“From looking into this further, We can see on the application form on point 3. That it has been advised that the works were urgent, due to the amount of water ingress affecting the property. See attached a video of the leak also, and finally please also find attached a copy of the indexed bundle as requested here, our apologies that this was not sent over to you previously.

18. This response is not satisfactory. The Tribunal still does not know whether the works have been executed. The Applicant fails to address what consultation took place in respect of the roof works or the question as to whether the Applicant had tested the market by obtaining a second quote.

19. The Applicant has provided a Bundle of 52 pages:

(i) The application form (p.1) is that for LON/00AN/LDC/2024/0059, rather than that for LON/00AN/LDC/2024/0087. The Tribunal had determined this application on 8 July 2024.

(ii) The Directions (at p.11) relate to LON/00AN/LDC/2024/0087.

(iii) The email, dated 26 March 2024 (at p.17), relates to the gully works raised in the previous application.

(iv) The statement from Ms Murphy (at p.21) also relates to the gully works.

(v) The Applicant has provided a copy of the lease for the First Floor Flat (at p.21).

(vi) The invoice at p.48 relates to the gully works, rather than the roof works.

20. 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.”

21. **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.**
22. The Tribunal is satisfied that it is reasonable to grant dispensation from the statutory consultation requirements. This is justified by the urgent need for the roof works. There is no suggestion that any prejudice has arisen. The Tribunal hopes that these works have now been executed. There seems to have been no attempt to test the market. This would be relevant were any leaseholder to challenge the reasonableness of the cost of the works when they are charged for them or the costs relating to this application.
23. However, this application has been far from satisfactory. There has been considerable confusion because of the separate applications in respect of the two sets of work. Both “the gully works” and the “roof works” have been urgent. Both the Applicant and the Tribunal must bear some responsibility for the confusion that has arisen. The leaseholders bear no responsibility for this.
24. **If any leaseholder feels that they have not had an adequate opportunity to respond to this application, the Tribunal grants them permission to apply to the tribunal by no later than 27 September 2024 to set this decision aside.** Any such application should specify why the leaseholder contends that dispensation should not be granted and what prejudice they have suffered as a consequence of the landlord not conducting the full statutory consultation.
25. The Tribunal will send a copy of this decision to the Applicant and the Respondents.

**Judge Robert Latham  
11 September 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 **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).