



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

Case Reference : **LON/00BJ/LDC/2024/0055**

Property : **37-48 Morris Gardens
Wandsworth
London SW18 5HL**

Applicant : **London Borough Wandsworth**

Representative : **None**

Respondents : **Leaseholders of all flats at
the Property**

Representative : **None**

Landlord : **London Borough Wandsworth**

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

Tribunal : **N. Martindale FRICS**

Hearing Centre : **10 Alfred Place London WC1E 7LR**

Date of Decision : **5 July 2024**

DECISION

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 in this application, only. Dispensation is granted on terms, as set out at the conclusion.

Background

2. The landlord applied on 24 January 2024 to the Tribunal under S.20ZA of the Landlord and Tenant Act 1985 (“the Act”). The application was for the dispensation from all or any of the consultation requirements contained in S.20 of the Act.
3. The application related to urgent works to loose and defective roof coverings to the main roof of the Property, a purpose built block of flats dating from the 1950’s. It was understood that the landlord is able to recharge costs under the service charge provisions for all flats in the Property, to all leaseholders.

Directions

4. Directions dated 8 May 2024 were issued by FTT London, without an oral hearing. These directed for various actions to be undertaken by the applicant and respondents if any, to reply, within a timetable.
5. By 22 May 2024 the applicant was to send to each potential respondent a copy of the application, (which should have included a brief statement of the scope of the works, of the cost for which dispensation from consultation was to be sought) and of the Directions. They were to display them in a prominent place in the Property and to confirm by email to the Tribunal by 25 May 2024 that these tasks had been completed.
6. By 7 June 2024 any respondent who objected to the application was to respond to the landlord, and the Tribunal, the former of which could reply briefly by 14 June 2024. By 21 June 2024 the applicant was to prepare a bundle containing the application form, Directions, sample lease and copies of all correspondence with the Tribunal and between parties, with a statement explaining the reasons for the application, to the active respondent and Tribunal. They were also to send copies of any responses from the leaseholders to the Tribunal or confirm that none were received.
7. In the 7 day period following 1 July 2024 the Tribunal would determine the application based on these written representations. If a party wanted a hearing they should request same of the Tribunal by 21 June 2024. No such request was received by the Tribunal. No responses were received.

8. The Tribunal determined the case on the paper bundle received from the applicant, alone.

Applicant's Case

9. The Property appears to consist of a purpose built post war Block in Wandsworth in a small residential estate of similar 3 storey blocks. Accommodation is said to be arranged on 3 levels for residential long leasehold flats ground first and second floors. A sample lease was enclosed confirming that leaseholders could be required by their landlord to make service charge contributions for services and works to common parts.
10. In the application form at box 7 it confirms that these works are to be qualifying works; that they had been started and were covered by a Qualifying Long Term Agreement. At Box 8 in reply to the question: 'Do you know of any other cases involving either (a) related or similar issues about the management of this property; or (b) the same landlord or tenant or property as in this application ?' They did not.
11. At box 9 the applicant was content for paper determination and applied for it, marking at box 10, but asked it could be dealt with by 'Urgent Track'. The application did not however, attempt to explain at this point, how it was urgent, nor why.
12. The application at box 'Grounds for seeking dispensation', was completed. At 1 the applicant referred to a tenant report on 14 December 2023, of loose tiles, from the main roof adjacent to Flat 41. The following day the landlord's estate officer for the Block attended photographed and cordoned off the communal area into which the tile had fallen. Three days later scaffolding was erected by the Council's contractor under the existing long term agreement for Blocks maintenance and works to the roof completed shortly thereafter.
13. At 2. 'Describe the consultation that has been carried out or is proposed to.' The landlord's representative called at the Block on 20 December 2023 and asked them sign off an agreement regarding the lack of prior consultation for this urgent work. Three leaseholders who were present did so, but others were not available, so a written request was left at each flat in the Block.
14. At 3, the applicant explained: *"Dispensation of Section 20 consultation required due to roof tiles becoming loose along the edge of the block above 41, which require urgent replacement on grounds of health and safety."*

15. The bundle contained a statement of case by the applicant providing additional detail in support of the application.

Respondent's Case

16. The Tribunal did not receive any representations from the leaseholders either in support of or raising any objection, at any time during the application process.

The Law

17. 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.

18. 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.”

19. 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.

Decision

20. 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.

21. 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.
22. No representations to the application were received by the Tribunal either within or beyond the relevant submission date for such.
23. The applicant appeared to have materially complied with the Directions: The Tribunal received no responses from leaseholders directly.
24. If there were costs associated with a prior survey and any associated work carried out prior to this application, (but, not subject to it), these are not covered by this dispensation, as it was not sought by the applicant.
25. The terms of this dispensation are:
26. This dispensation does not determine what service charges are reasonable and payable by any leaseholder under the lease, as a service charge for these capital works, just the cap on the cost, at the 'total figure' in the paragraph below.
27. A copy of a specification was not provided, but the price of £7,232.33 was quoted for the works, plus a 25% charge for "fees" at £1808.03 on top of that figure. The total figure is £9,040.41, including scaffold supply installation and removal. These figures include VAT where chargeable.
28. This dispensation does not extend to any other works at the Property other than those set out in the application. This is because they do not form part of this application.
29. **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.**