



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

Case Reference : **LON/00AG/LDC/2024/0063**

Property : **65 Grafton Way, London, W1T 6JA**

Applicant : **FIT Nominee Ltd & FIT Nominee 2 Ltd**

Respondents : **Flat 1: Spencer Privett
Flat 2: Family and Castle Limited
Flat 3: Ann Mary Wixley
Flat 4: (Chen Zhiyang) and Tan Woon Hui (Chen Enhui)
Flat A: Phillip Martin Reid and Emma Jayne Reid**

Type of Application : **Dispensation from consultation requirements under Landlord and Tenant Act 1985 section 20ZA**

Tribunal Members : **Judge Professor R Percival
Mr A Lewicki BSc (Hons), MBEng, FRICS**

Venue : **Remote paper determination**

Date of Decision : **8 July 2024**

DECISION

Decisions of the tribunal

- (1) The Tribunal, pursuant to section 20ZA of the Landlord and Tenant Act 1985 (“the 1985 Act”), grants dispensation from the consultation requirements in respect of the works which are the subject of the application.#

Procedural

1. The landlord submitted an application for dispensation from the consultation requirements in section 20 of the Landlord and Tenant Act 1985 (“the 1985 Act”) and the regulations thereunder, dated 15 February 2024. The works are said to be imminent in the application, and an invoice dated 6 March 2024, so it appears that the application should be considered as one for retrospective dispensation.
2. The Applicant notes that the service charge contributions are unequal, such that the service charge in respect of the works would only exceed the appropriate amount in respect of flats 4 and A.
3. The Tribunal gave directions on 25 April 2024. The directions provided for a form to be distributed to those who pay the service charge to allow them to object to or agree with the application, and, if objecting, to provide such further material as they sought to rely on. The application and directions were required to be sent to the leaseholders and any sublessees, and to be displayed as a notice in the common parts of the property. The deadline for return of the forms, to the Applicant and the Tribunal, was 30 May 2024.
4. No response from any of the leaseholders has been received by the Tribunal. The Applicant confirmed that no responses had been received by it.

The property and the works

5. The property is described as a residential building containing five flats.
6. The works relate to the repair of a leak in the roof. The quotation referred to below specified that the work consisted of the supply and application of liquid membrane to those areas of the roof in need of resealing.
7. An invoice dated 6 March 2024 is provided in the bundle. It shows the cost of the works as £1,188 including VAT, and is in line with a quotation dated 12 February 2024.

Determination

8. The relevant statutory provisions are sections 20 and 20ZA of the Landlord and Tenant Act 1983, and the Service Charges (Consultation etc)(England) Regulations 2003. They may be consulted at the following URLs respectively:
<https://www.legislation.gov.uk/ukpga/1985/70>
<https://www.legislation.gov.uk/uksi/2003/1987/contents/made>
9. The Tribunal is concerned solely with an application under section 20ZA of the 1985 Act to dispense with the consultation requirements under section 20 and the regulations.
10. We have been provided with no details of the necessity for the works other than there is a roof leak, and it has caused damage to flat 4. Nonetheless, we are prepared to accept that this at least suggests an urgency incompatible with undertaking a section 20 consultation.
11. In any event, no response has been received from any of the leaseholders objecting to the application, either by the Tribunal or, it reports, the Applicant. It is therefore clear that none of the leaseholders have sought to claim any prejudice as a result of the consultation requirements not having been satisfied. Where that is the case, the Tribunal must, quite apart from any question of urgency, allow the application: *Daejan Investments Ltd v Benson and others* [2013] UKSC 14; [2013] 1 WLR 854.
12. This application relates solely to the granting of dispensation. If the leaseholders consider the cost of the works to be excessive or the quality of the workmanship poor, or if costs sought to be recovered through the service charge are otherwise not reasonably incurred, then it is open to them to apply to the Tribunal for a determination of those issues under section 27A of the Landlord and Tenant Act 1985.

Rights of appeal

13. 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 London regional office.
14. The application for permission to appeal must arrive at the office within 28 days after the Tribunal sends written reasons for the decision to the person making the application.
15. If the application is not made within the 28 day time limit, the 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 these reason(s) and decide whether to allow the application for permission to appeal to proceed despite not being within the time limit.

16. The application for permission to appeal must identify the decision of the Tribunal to which it relates, 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.

Name: Judge Prof Richard Percival **Date:** 8 July 2024