



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

Case reference : **LON/00/00AH/LDC/2024/0090**

Property : **Canius House, 1 Scarbrook Road,
Croydon, CR0 1FQ**

Applicant : **Adriatic Land 5 Ltd**

Representative : **D & C Block Management Ltd**

Respondent : **39 Leaseholders named in the schedule
attached to the Application**

Representative : **n/a**

Type of application : **For dispensation from the statutory
consultation requirements under
section 20ZA Landlord and Tenant Act
1985.**

Tribunal : **Judge N O'Brien**

Date of decision : **6 November 2024**

DECISION

Decisions of the tribunal

1. The Tribunal grants the application for retrospective dispensation from the statutory consultation requirements in respect of the subject works namely roof repairs more particularly described in the documents included in the bundle supplied by the Applicant.
2. This decision does not affect the Tribunal's jurisdiction upon any future application to make a determination under section 27A of the Landlord and Tenant Act 1985 in respect of liability to pay, for a reason other than non-compliance with the statutory consultation requirements, in respect of the subject works and the reasonableness and/or the cost of the same.

The Application

3. The Applicant seeks a determination pursuant to section 20ZA of the Landlord and Tenant act 1985 (LTA 1985) for dispensation from the consultation requirements in respect of works to Canius House, a 5-floor converted block containing 39 flats. The works are described in the application as repairs to the roof. The Applicant's case is that the roof was leaking and urgent repairs were required to mitigate against further damage to the property. Scaffolding was already in situ at the time of the application for the purposes of carrying out cladding remediation works. The Applicant submitted that if the scaffolding was struck before the roof repairs were carried out, a further additional cost for scaffolding would be incurred at a later date when the roof repairs were undertaken.
4. By directions dated 25 September 2024 the Tribunal directed that the Applicant should, by 4 October 2024, send to each leaseholder and any residential sub-lessees and any recognised tenants association the application and the directions, and confirm to the Tribunal that this had been done by 8 October 2024. The Applicant confirmed on 2 October 2024 that those directions had been complied with.
5. The directions provided that if any leaseholder or sublessee objected to the application, he or she should inform the Applicant and the Tribunal by 14th of October 2024. The Tribunal received no objections to the application.
6. The directions provided that the Tribunal would decide the matter on the basis of written representations unless any party requested a hearing. No such request has been made.

Legal Framework

7. The Service Charges (Consultation Requirements)(England) Regulations 2003 set out the consultation process which a landlord must follow in

respect of works which will result in any leaseholder contributing more than £250 towards the cost. In summary they require the Landlord to follow a three stage process before commencing the works. Firstly the Landlord must send each leaseholder a notice of intention to carry out the works and give the leaseholders 30 days to respond. Then the Landlord must send out details of any estimates and permit a further 30 day period for observations. Then, if the landlord does not contract with a contractor nominated by the leaseholders or does not contract with the contractor who has supplied the lowest estimate, it must serve notice explaining why.

8. Section 20ZA of the LTA 1985 provides:

“Where an application is made to the appropriate tribunal for a determination to dispense with any or all 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”.

9. In *Dejan Investments Ltd v Benson and others [2013] UKSC 14* the Supreme Court held that in any application for dispensation under s20ZA of LTA 1985 the Tribunal should focus on the extent, if any, to which the leaseholders are or would be prejudiced by either paying for inappropriate works or paying more than would be reasonable as a result of the failure by the landlord to comply with the Regulations.

The Applicant’s Case

10. The Applicant has partially complied with the statutory consultation requirements. In its application the Applicant states that notice of intention was served on the leaseholders on the 4th of January 2024. One response was received by a leaseholder who recommended that the Applicant approach a specific contractor, which it did. A statement of estimates was sent to the leaseholders on the 2nd of February 2024 being the same date as this application was submitted to the Tribunal. Copies of both are included in the bundle.
11. The Applicant obtained estimates from both its proposed contractor and the contractor suggested by one of the leaseholders. In the event the estimate provided by the Applicant’s proposed contractor, in the sum of £18,417, was the lower of the two. The estimate from the leaseholder proposed contractor was £25,610. The Applicant proceeded to instruct its proposed contractor. The final cost of the works was £23,180 and a copy of the invoice is included in the bundle.
12. In essence the Applicant’s case is that dispensation should be granted because there was insufficient time to complete the statutory consultation process before the scaffolding was due to be taken down on

14 February 2024. It submits that the cost of the works would have been higher had the scaffolding been struck before the roof repairs were carried out.

13. The Applicant further submits that the leaseholders were made aware of the necessity of carrying out the roof repairs on a number of occasions prior to the application, and had been provided with a copy of a roof survey indicating that the works were required to prevent water ingress.

Responses from the Respondents

14. No response has been received by the Tribunal from any of the named Respondents.

The Tribunal's decision

15. The Tribunal determines that it is reasonable to grant dispensation sought by the Applicants. The Applicants have complied in substance with the consultation requirements, albeit not in full due to the desirability of carrying out the works before the scaffolding was struck. There is no evidence of any prejudice to the Respondents and none of the Respondents have objected to the application.
16. The Applicant is reminded that, as stated in the directions, it is the responsibility of the Applicant to serve a copy of this decision on all the Respondents.

Name: Judge N O'Brien

Date: 6 November 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.

If the tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).