



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

Case reference : **LON/00AG/LDC/2024/0247**

Property : **1 – 38 Spencer Walk, London NW3 1QZ**

Applicant : **Spencer Walk Residents Association**

Representative : **Alexander Reece Thompson LLP**

Respondent : **The Leaseholders of the Property as set out on the schedule annexed to the application**

Representative : **None**

Type of application : **Application for dispensation under s20ZA of the Landlord and Tenant Act 1985**

Tribunal member(s) : **Judge Dutton**

Date and venue of hearing : **Paper determination**

Date of decision : **12 November 2024**

DECISION

Decisions of the tribunal

The tribunal determines that dispensation should be granted from the consultation provisions for the reasons set out below.

Background

1. This is an application under section 20ZA of the Landlord and Tenant Act 1985 (the Act) by the management company Spencer Walk Residents Association, the landlord being Allied Commercial Exports Limited in respect of the property 1 – 38 Spencer Walk, London NW3 1QZ (the Property) for dispensation from the requirements under s20 of the Act. The application is dated 28 August 2024.
2. The Property is an estate of some 35 residential dwellings consisting of 15 leasehold houses and 20 flats, all built in 1985 and within a gated area. I am told that urgent repairs were required to a number of roofs and windows, and if not dealt with the continued water ingress will cause further damage to the affected properties.
3. I have been supplied with a bundle running to some 62 pages, and I have noted the contents. As well as the application, the bundle includes the directions issued by the tribunal on 17 September 2024, a witness statement from Mr Nigel Lenson of Alexander Reece Thompson LLP on behalf of the Applicant, details of the planned works and costs and sample leases for the flats and houses on the estate. I have taken them into account when reaching my decision. I have noted that the s20 procedure has been largely followed with the initial notice being served in July 2024 followed by the second and third elements culminating in the third notice confirming the placement of the contract with Lamberty's Building and Roofing Limited on 27 September 2024. However, the sums involved have increased quite dramatically for the reasons set out below.
4. It seems that following the commencement of the works further amounts of asbestos have been discovered and additional scaffolding and crane hire required. Full details of the works and the timing of same were provided to the leaseholders in an email from Mr Lenson dated 20 October 2024. This highlighted the increased costs to something in the region of £474,00 inclusive. I am told this can be met from the reserve fund. I should add that this does include extra roofing works.
5. The directions issued on 17 September 2024 provided that in the absence of any disagreement the application would proceed as a paper determination. I have seen an email from Mr Lenson dated 20 September 2024 confirming that the directions relating to the service of the application and the accompanying documents had been sufficiently complied with. I am not aware that any leaseholder has objected to the application to dispense.

Findings

6. I have considered this matter solely on the papers before me. This application relates only to the dispensation from the consultation requirements set out at s20 of the Act and the Service Charges (Consultation Requirements (England) Regulations 2013 (the Regulations). **It does not relate to the reasonableness or payability of the costs associated with the works.**
7. The statement from the Mr Lenson on behalf of the applicant sets out the work required to repair the roofs and the windows. I accept that these are matters that required urgent attention and I am satisfied that it is reasonable to grant dispensation from the consultation requirements. I have borne in mind the Supreme Court decision in Daejan Investments Limited v Benson and others [2013] UKSC 14. There is no evidence of any prejudice caused to the leaseholders and indeed none have raised an objection to the application. Dispensation is therefore granted from the consultation process as provided for in the Regulations.

Name: Judge Dutton

Date: 12 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).

