



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

Case Reference : **LON/00AY/LDC/2024/0645**

Property : **40 Hackford Road, London, SW9 0RF**

Applicant : **Orchidbase Limited**

Representative : **Michael Richards and Co**

Respondents : **Mr J D Lindsey (1) Mr P J Fitchie and
Mr S C Hall (2) Mrs G A Lambrechts (3)**

Type of Application : **For dispensation from the consultation
requirements under Section 20ZA
Landlord & Tenant Act 1985**

Tribunal : **Mr R Waterhouse BSc (Hons) LL.M
Property Law MA FRICS**

Date of Decision : **03 February 2025**

DECISION

This has been a remote paper determination, which has been consented to by the parties. A face-to-face hearing was not held because it was not practicable and no one requested same.

The documents the Tribunal were referred to were in a bundle of some 36 pages.

Decision

- (1) The Tribunal determines that unconditional dispensation should be granted from the consultation requirements from Section 20ZA of the Landlord and Tenant Act 1985 (the Act) in respect of the property 40 Hackford Road, London, SW9 0RF.**
- (2) We make no determination as to the reasonableness of the costs of same, these being matters which can be considered, if necessary, under the provisions of s27A and s19 of the Act.**

The Application

1. This Application is made by Michael Richards & Co on behalf of, the freeholder, Orchidbase Limited received **7 November 2024**.
2. The Application seeks dispensation from the consultation requirements under Section 20ZA of the Landlord and Tenant Act 1985.
3. The Application is concerned solely with the question of what consultation if any should be given of the consultation requirements of Section 20 of the 1985 for works costing in excess of £250 per flat. It is not concerned with the reasonableness or payability of any service charges which may arise.

The Determination

4. A written Application was made by Michael Richards & Co, appointed by Orchidbase Limited the freeholder. The tribunal considered the written bundle of 36 pages, in support of the Application.

Background

5. The property comprises; a block of converted self-contained residential flats believed to have been constructed around 1900. The block contains three flats in total. The premises are likely to have been converted pre 1991 possibly around 1980. The premises have three storeys (ground first and second floors). Externally, there are ceramic tiles footpath/steps, parking is on the public highway.
6. The Application Form notes under “Grounds for Seeking Dispensation”; the leaseholders in the top floor flat reported a leak into their property, which we instructed a leak investigation for on the 2 October 2024. The initial leak investigation took place on 14th October 2024. The repairs required included removing and replacing approximately 12 square meters

of slating, replacing tiles, slates, and lead to prevent water ingress. The repairs were carried out and completed on Monday 5th November 2024.”

7. The Application Form notes in terms of consultation; “ we did not have the opportunity to provide leaseholders with a Section 20 stage 1 or 2 notice as once the investigation took place on Monday 14 October 2024 , following the installation of a scaffold tower for access , more repairs than expected were required , taking the total for the works over the Section 20 threshold. A letter to leaseholders was then sent on Tuesday 15 October, outlining the findings and advising of the next steps, including the costs involved and a copy of the quote received. On the 1st November 2024, all leaseholders were updated with the scheduled date of repair. The works were then carried out on Monday 5 November 2024, and an update was sent to all leaseholders informing them of the completion on Tuesday 6 November 2024.”
8. The Directions dated **4 December 2024**, provided for the tenants to be given copies of the Application form, a brief statement to explain the reasons for the Application and display a copy of the directions in a prominent place in the common parts of the property. This to be done by the **11 December 2024** and the Tribunal notified as such by the **13 December 2024**.
9. The Directions also note that any leaseholder who opposes the Application should by the **20 December 2024** complete the reply form and return it to the Tribunal. The Landlord may by the **15 January 2025** provide a brief reply to any leaseholder who opposes the Application.
10. The Landlord confirmed to the Tribunal by email dated **6 December 2024** that the Directions had been forwarded to the leaseholders and displayed in communal area. The Landlord has not indicated that any of the leaseholders have opposed the Application, and the Tribunal has not received any communication from the leaseholders indicating opposition.
11. The only issue for the Tribunal is whether or not it is reasonable to dispense with the statutory consultation requirements of Section 20 of the 1985 Act. **This Application does not concern the issue of whether any service charge costs will be reasonable or payable.**

Documents

12. The Tribunal has had recourse to the Bundle of 36 pages which includes the Application form, Directions, statement of case, copy of lease, works order sent to contractor and quotation received from contractor.

The Tribunal's decision

13. The Tribunal grants dispensation under Section 20 ZA of the Landlord and Tenant Act 1985 and the Service Charges (Consultation) (England) 2003 for the works set out in the Application.
14. We are, aware of the judgment in Daejan Investments Limited v Benson and others [2013] UKSC 14. The Application for dispensation is not challenged.
15. The Supreme Court (Lord Neuberger at para 50) accepted that there must be real prejudice to the tenants. Indeed, the Respondents do not oppose the Application. It is accepted that we have the power to grant dispensation on such terms as we think fit. However, the Landlord is entitled to decide the identity of the contractors who carry out the work, when they are done, by whom and the amount. The safety net for the Respondents is to be found in Sections 19 and 27A of the Landlord and Tenant Act 1985.
16. Accordingly, we find that unconditional dispensation should be granted.
17. Our decision is in respect of the dispensation from the provisions of s20 of the Act only. It is open to the opposing leaseholder or others to apply under the Landlord and Tenant Act 1985 Section 27A, should there be concerns over the payability and reasonableness of the service charge, these may include concerns over necessity, quality of work and its cost.

Richard Waterhouse

**Name: Richard Waterhouse
FRICS**

3 February 2025

ANNEX – RIGHTS OF APPEAL

1. **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 at the Regional Office which has been dealing with the case.**

- 2. 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.**
- 3. If the Application is not made within the 28-day time limit, such Application must include a request to 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.**
- 4. The Application for permission to appeal must identify the decision of the Tribunal to which it relates (ie 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**