FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case reference	**:**	**LON/00AK/LDC/2024/0195**
Property	**:**	**Regents Court 1 Swan and Pike Road Enfield EN3 6DF**
Applicant	**:**	**Seedwell Limited**
Representative	**:**	**Hallmark Property Management Ltd c/o K Kowalczykowski**
Respondents	**:**	**The long leaseholders of the 6 flats in Regents Court**
Representatives	**:**	**N/A**
Type of Application	**:**	**Application for dispensation pursuant to s.20ZA of the Landlord and Tenant Act 1985**
Tribunal	**:**	**Judge N O'Brien**
Date of Decision	**:**	**21 January 2025**

DECISION

Decision of the tribunal

1. The Tribunal unconditionally grants the application for retrospective dispensation from the statutory consultation requirements in respect of the subject works more particularly described in the application.

The Application

2. On 19th July 2024 the Applicant's managing agent Hallmark Ltd applied pursuant to section 20ZA of the Landlord and Tenant Act 1985 (LTA 1985) for dispensation from the statutory consultation requirements in respect of works to Regents Court, 1 Swan and Pike Road, Enfield EN3 6DF.

Regents Court consists of a converted three storey building containing 6 apartments. The building has a pitched tiled roof with 6 dormer windows in the roof with lead roofs with lead surrounds. The application relates to roofing repairs carried out in Summer of 2024. The total cost of the repairs was estimated to be £6000, or £1000 per flat. The Applicant did not comply with the statutory consultation process but made a pre-emptive application to the Tribunal for dispensation. Unfortunately the email sent by the tribunal to the Applicant's representative enclosing the tribunal's directions did not reach its intended addressee and this has caused some delay in the proceedings. Amended directions were issued by the tribunal on 25 November 2025

3. By the amended directions the tribunal directed that the Applicant should, by 2nd December 2024, send to the leaseholders and the residential sub-lessees and any recognised tenants association the application, and a brief statement explaining the reasons for the application if not already contained in the application, and the directions by email or post and affix them to a prominent place in the common parts of the property.

4. The applicant's agent confirmed by email sent on 2 December 2024 that it had served the required documentation on each leaseholder on 2nd December 2024 and had placed a copy of the same on a notice board located on the ground floor

5. The amended directions provided that if any leaseholder or sublessee objected to the application, he or she should inform the Applicant and the tribunal by 23rd December 2024 with any reply by the Applicant to be filed and served by 6th January 2025. The Tribunal received an objection to the application from a Mr John Christopher Bass the leasehold owner of Flat 4 Regents Court on 23 December 2024. A brief reply was sent by the Applicant.

6. The directions provided that the Tribunal would decide the matter on the basis of written representations unless any party requested a hearing. Neither the Applicant nor any of the Respondents have requested a hearing.

7. **This determination relates to the works described in the application. It does not relate to whether or not the cost of the works was payable, reasonable or reasonably incurred.**

Legal Framework

8. 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 service notice explaining why.

9. 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".*

10. 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 gravity of the landlord's failing or the reasonableness of its actions are only relevant insofar as they are shown to have caused such prejudice. The evidential burden of identifying relevant prejudice lies on the tenants but once they have raised a credible case of prejudice, the burden is then on the landlord/applicant to rebut it.

The Applicant's Case

11. The reasons for the application are explained in brief in the application notice and are expanded upon in a letter sent by the Applicant's agent to the leaseholders on 19 July 2024 which is included in the bundle filed by the Applicant. It appears that a roof of one of the dormer windows was damaged by wind. It was anticipated that the cost of the repair would be in the region of £1000 which would have been less than £250 per leaseholder and so the s.20 process was not initially engaged. However when the applicant's chosen contractor attended the property to repair the roof in about mid July 2024 he discovered that the lead covering on the dormer windows was not correctly installed and that the lead itself was too thin to comply with industry standards. He suggested removing the lead covering on all the dormer roofs and replacing it at a cost of £6000, with no additional VAT. The Applicant's agent instructed the contractor to proceed as it considered that the roofing works were urgent and that further delay risked damage to the structure of the building.

Mr Bass's Objections

12. Mr Bass has lodged an objection but he does not oppose the grant of dispensation as he agrees that time was of the essence to avoid even more costs. He does not submit that the costs were unreasonably incurred in principle. However he is dissatisfied with the efforts made by the Applicant to minimise the cost of the works for the leaseholders and in particular is concerned that no claim was made on the guarantee which was in place for the roof and no claim was made on the buildings insurance. He also considers that the contractors delayed in completing the works and is concerned that this inflated the cost of the scaffolding.

13. In response the Applicants agent submits that the excess on the policy was in excess of the cost of the works and that any delay was due to weather conditions and did not affect the cost of the scaffolding.

The Decision

14. The Tribunal grands unconditional dispensation from the statutory consultation requirements. The objection raised by Mr Bass relates to the cost of the works and the issue of insurance. He does not suggest that the works themselves were inappropriate or that he would have obtained estimates from another contractor had the statutory consultation process been followed. The grant of dispensation does not affect the rights of any leaseholder to apply for a determination under s27A of the LTA 1985 in respect of the cost of the works, or the reasonableness or recoverability of any associated service charge save as to the question of compliance with the consultation requirements.

15. The Applicant is reminded that, as stated in paragraph 8 of the directions, it is the responsibility of the Applicant to serve a copy of this decision on all the affected lessees.

Name: Judge N O'Brien **Date:** 21 January 2025

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).