



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

Case Reference : **LON/00AW/LDC/2024/0626**

Property : **21 Gledhow Gardens, London SW5 0AZ**

Applicant : **Cadogan Estate Limited**

Represented by : **Residential Management Group**

Respondents : **The leaseholders of the flats within the property**

Type of Application : **Application under section 20ZA to dispense with consultation requirements for a scheme of Major work**

Tribunal : **Judge Daley**

Date and venue of Paper Determination : **03 March 2025, Remotely at Property Tribunal 10 Alfred Place,**

Date of Decision : **3 March 2025**

DECISION

Decision of the tribunal

- i. The tribunal grants dispensation in respect of the major works relating to the roofing repairs at the premises in the total sum of £6210.00.**
- ii. The Tribunal makes no order for the cost occasioned by the making of the application.**

The application

1. The applicant by an application, made on 22 October 2024 sought dispensation under section 20ZA of the Landlord and Tenant Act 1985 from part of the consultation requirements imposed on the landlord by section 20 of the 1985 Act¹.
2. The premises which are the subject of the application are a residential 6 floor property including ground and lower ground, comprising of 8 flats with their own external entrances.

The Background

3. This application sought an order for dispensation of the consultation requirements in respect of the premises, on the grounds that water was leaking from the roof into the premises. A terrace balcony is present on the first floor only. It is assessed that the decking is constructed
4. The Applicant was informed of the need for the work, and its urgency. Roof works were necessary and the work to remove the balcony was also considered.
5. On 22 October 2024, the Applicant's managing agent applied to the Tribunal for dispensation. Directions were made on 16 December 2024.
6. Directions were given in writing setting out the steps to be taken by the Applicant, (including serving the directions on the respondents) for the progress of this case.
7. The Applicant tested the market and obtained quotes from Argent FM Limited and Hart Development & Construction Ltd, as the applicant was aware of the contractor's work. The work was commissioned in September 2022 and completed in November 2022.
8. The Freeholder seeks dispensation of the consultation requirements on the grounds that the work was urgent as damage was being caused to flat 2 at the premises as such the landlord considered that further damage

¹ See **Service Charges (Consultation Requirements) (England) Regulations 2003 (SI2003/1987)**

would be caused if they decided to comply with the Section 20 Consultation procedure.

9. The Directions also provided that -: *Those leaseholders who oppose the application must by 31 January 2025-: complete the attached form and send it by email to the Tribunal; and*
 - (i) *Send to the applicant/ landlord by email or post a statement in response to the application with a copy of the reply form by email or by post. They should send with their statement copies of any documents upon which they wish to rely.*
10. The Directions also provided that the application would be determined based on written representations in the week commencing 3 March 2025, and that any request for a hearing should be made by 21 February 2025.
11. No request was made for a hearing, and the Tribunal having reviewed the papers are satisfied itself that the matter was suitable to be dealt with on the papers.

The Applicant's case

12. The application was made on behalf of the landlord by the Residential Management Group who are managing agents. The Applicant's case was as set out in the Application form and bundle of documents comprising 64 pages.
13. In their statement the Landlord repeated the matters set out in their application. In their statement the stated-: "The Applicant appointed Argent based on their competitive tender and expertise.
14. It is understood that the Applicant ought to have acted within an up most efficient conduct due to health and safety and duty of care for the wellbeing of the leaseholder at Flat 2.
15. The degree of urgency also relates to the damages caused by the water ingress into Flat 2. The Applicant was determined to resolve the issue without delays before the rainy season started."

16. In the application the applicant set out that they had made a claim for part of the costs of the work which had been accepted in the sum of £4050.00 which reduced the leaseholder's service charge liability of the leaseholders. The Tribunal was provided with an invoice in the total sum of £10260.00.

The Respondent's Case

17. The Tribunal received no written objection to the costs of the work from any of the leaseholders.

The tribunal's decision and reason for the decision

18. The Tribunal having considered all the circumstances in this case, although it has not had any representations from the respondent it has made no assumption that the service charges have been deemed reasonable by the leaseholders.

19. The Tribunal has considered the lease however, it noted that a copy was included however it made no findings as to whether on a proper construction of the lease the sums due are payable by the leaseholders.

20. The Tribunal noted that its jurisdiction in this matter is limited to the scope as set out in Section 20ZA and as discussed by the court in *Daejan –v- Benson (2013)* which requires the Tribunal to decide on whether the leaseholders would if dispensation is granted suffer any prejudice. The Tribunal have no information before it that the work was overpriced or that the work was either unnecessary in its scope or sub-standard. As such it has not found that the Respondent was prejudiced in not being consulted under Section 20 of the Landlord and Tenant Act 1985.

21. Although the Tribunal does not find that there is any prejudice to the dispensation being granted, The Tribunal would note that the limit in its jurisdiction has meant that it has not considered whether the work was within the scope of the repairing covenant in the lease, **As such nothing in the Tribunal's decision deals with the reasonableness or payability under the lease of the work in issue.**

22. The leaseholders will of course enjoy the protection of section 27A of the 1985 Act so that if they consider the costs of the work are not reasonable (on the grounds set out above or any other ground) they may make an application to the tribunal for a determination of their liability to pay the resultant service charge.

23. However, the Tribunal is satisfied that in all the circumstances in this application it is reasonable to grant dispensation.

24.No applications were made for costs before the tribunal.

Judge Daley

Date 03.03.25

Appendix of relevant legislation

Landlord and Tenant Act 1985

Section 27A

- (1) An application may be made to a leasehold valuation tribunal for a determination whether a service charge is payable and, if it is, as to -
 - (a) the person by whom it is payable,
 - (b) the person to whom it is payable,
 - (c) the amount which is payable,
 - (d) the date at or by which it is payable, and
 - (e) the manner in which it is payable.
- (2) Subsection (1) applies whether or not any payment has been made.
- (3) An application may also be made to a leasehold valuation tribunal for a determination whether, if costs were incurred for services, repairs, maintenance, improvements, insurance or management of any specified description, a service charge would be payable for the costs and, if it would, as to -
 - (a) the person by whom it would be payable,
 - (b) the person to whom it would be payable,
 - (c) the amount which would be payable,
 - (d) the date at or by which it would be payable, and
 - (e) the manner in which it would be payable.
- (4) No application under subsection (1) or (3) may be made in respect of a matter which -
 - (a) has been agreed or admitted by the tenant,
 - (b) has been, or is to be, referred to arbitration pursuant to a post-dispute arbitration agreement to which the tenant is a party,
 - (c) has been the subject of determination by a court, or
 - (d) has been the subject of determination by an arbitral tribunal pursuant to a post-dispute arbitration agreement.
- (5) But the tenant is not to be taken to have agreed or admitted any matter by reason only of having made any payment.

Section 20

- (1) Where this section applies to any qualifying works or qualifying long term agreement, the relevant contributions of tenants are limited in accordance with subsection (6) or (7) (or both) unless the consultation requirements have been either—
 - (a) complied with in relation to the works or agreement, or
 - (b) dispensed with in relation to the works or agreement by (or on appeal from) a leasehold valuation tribunal.

- (2) In this section “relevant contribution”, in relation to a tenant and any works or agreement, is the amount which he may be required under the terms of his lease to contribute (by the payment of service charges) to relevant costs incurred on carrying out the works or under the agreement.
- (3) This section applies to qualifying works if relevant costs incurred on carrying out the works exceed an appropriate amount.
- (4) The Secretary of State may by regulations provide that this section applies to a qualifying long term agreement—
 - (a) if relevant costs incurred under the agreement exceed an appropriate amount, or
 - (b) if relevant costs incurred under the agreement during a period prescribed by the regulations exceed an appropriate amount.
- (5) An appropriate amount is an amount set by regulations made by the Secretary of State; and the regulations may make provision for either or both of the following to be an appropriate amount—
 - (a) an amount prescribed by, or determined in accordance with, the regulations, and
 - (b) an amount which results in the relevant contribution of any one or more tenants being an amount prescribed by, or determined in accordance with, the regulations.
- (6) Where an appropriate amount is set by virtue of paragraph (a) of subsection (5), the amount of the relevant costs incurred on carrying out the works or under the agreement which may be taken into account in determining the relevant contributions of tenants is limited to the appropriate amount.
- (7) Where an appropriate amount is set by virtue of paragraph (b) of that subsection, the amount of the relevant contribution of the tenant, or each of the tenants, whose relevant contribution would otherwise exceed the amount prescribed by, or determined in accordance with, the regulations is limited to the amount so prescribed or determined.]

1. **S20ZA Consultation requirements: supplementary**

- (1) Where an application is made to a leasehold valuation tribunal for a determination to dispense with all or any 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.
- (2) In section 20 and this section—

"qualifying works" means works on a building or any other premises,
and

- "qualifying long term agreement" means (subject to subsection (3)) an agreement entered into, by or on behalf of the landlord or a superior landlord, for a term of more than twelve months.
- (3) The Secretary of State may by regulations provide that an agreement is not a qualifying long term agreement—
 - (a) if it is an agreement of a description prescribed by the regulations, or
 - (b) in any circumstances so prescribed.
 - (4) In section 20 and this section "the consultation requirements" means requirements prescribed by regulations made by the Secretary of State.
 - (5) Regulations under subsection (4) may in particular include provision requiring the landlord—
 - (a) to provide details of proposed works or agreements to tenants or the Recognised tenants' association representing them,
 - (b) to obtain estimates for proposed works or agreements,
 - (c) to invite tenants or the recognised tenants' association to propose the names of persons from whom the landlord should try to obtain other estimates,
 - (d) to have regard to observations made by tenants or the recognised tenants' association in relation to proposed works or agreements and estimates, and
 - (e) to give reasons in prescribed circumstances for carrying out works or entering into agreements.
 - (6) Regulations under section 20 or this section—
 - (a) may make provision generally or only in relation to specific cases, and
 - (b) may make different provision for different purposes.
 - (7) Regulations under section 20 or this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament. [...]
2. The relevant Regulations referred to in section 20 are those set out in Part 2 of Schedule 4 of the Service Charge (Consultation etc) (England) Regulations 2003.