



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

Case Reference	: HAV/00HG/LDC/2024/0508/BS
Property	: Stoke Road Flats, Plymouth, Devon, PL1 5JG
Applicant	: Plymouth Community Homes Limited Sarah.schooling@pch.co.uk
Respondents	: Mr Andrew Howie Bashforth (No. 64) Mr Michael Jones (No. 88) Mr Francis Gordon (NO. 90)
Type of Application	: To dispense with the requirement to consult lessees about major works section 20ZA of the Landlord and Tenant Act 1985
Tribunal Member	: Judge Dovar
Date of Decision	: 11 th March 2025

DECISION

1. The Applicant seeks dispensation under s.20ZA of the Landlord and Tenant Act 1985 from the consultation requirements imposed on the landlord by s.20 of the 1985 Act in respect of major works which it has already carried out. Those works included the installation of external wall insulation, renewal of roof coverings and rainwater goods, decoration and new curtain walling to the common part stairwells, in addition to repair works.
2. The three Respondents are those long leaseholders from whom the Applicant seeks to recover a service charge contribution for the costs of the major works.

3. The necessity for this application arose in the course of separate proceedings brought by one of the Respondents, Mr Bashforth, under s.27A of the 1985 Act, where he challenged the payability of the service charges claimed for the major works (ref CHI/00HG/LSC/2023/0071). The hearing of that matter went part heard, with the Tribunal commenting that that there had been a failure to adhere to the s.20 consultation process in that the Applicant had failed to provide Mr Bashforth, at his request, with an opportunity to inspect the estimates for the major works prior to the contract being entered into; contrary to Paragraph 4 (5) (c) of Part 2 of Schedule 4 of the Service Charge (Consultation Requirements) (England) Regulations 2003, SI 2003/1987). It was also noted that neither of the other two Respondents had sought to examine the estimates.
4. It had been intended that this s.20ZA application was to be heard with the reconvened s.27A application. However, Mr Bashforth has since withdrawn his application made by him under s.27A and has not served an objection to this application.
5. The second Respondent, Mr Jones, sent an email to the Tribunal dated 12 October 24 which the Tribunal has treated as his objection to this application. His email of 12th October 2024 says that in general the Applicant has been disregarding their legal obligations. He also refers to the difficulties he has faced in getting assistance with this matter and that he has mental health problems. As a result of the latter he requests that the application is put on hold pending his obtaining assistance. In response the Tribunal provide a list of advice agencies and required an application be made to stay the proceedings. No such application was made, nor has anything further been heard from Mr Jones.
6. The third Respondent, Mr Gordon, has not served an objection to this application.
7. In its grounds in support of this application, the Applicant has set out the tender and consultation process for the works. It then carried out the works in March 2021 and they completed around November 2022. TEC Construction Limited provided the lowest quote and scored the highest in the tender report. Accordingly they were appointed by the Applicant. The total works costs £1,024,344.68.
8. The notice of estimates was sent to the leaseholders on 4th January 2021, which included a summary of the breakdown of the three estimates provided. It also invited inspection of the estimates. Mr Bashforth had responded and requested a detailed breakdown of the estimates on 31st January 2021, but this was not provided to him until 23rd March 2021; i.e. after works had commenced and the contract placed.

9. The only issue for the Tribunal is whether or not it is reasonable to dispense with the statutory consultation requirements. This application is not about the costs of the works, and whether they are recoverable from the leaseholders as service charges or the possible application or effect of the Building Safety Act 2022. The leaseholders have the right to make a separate application to the Tribunal under section 27A of the Landlord and Tenant Act 1985 to determine the reasonableness of the costs, and the contribution payable through the service charges. Indeed Mr Bashforth has already made such an application.
10. Had Mr Bashforth been able to identify any prejudice then that would have been considered. He has already exercised the right to challenge the costs and did so after he received the detailed breakdown of the works. He has however, withdrawn that application.
11. There are therefore no substantive ground of opposition to this application. The one defect related to one leaseholder only, in respect of the failure to make the full details of the tender known until after the contract for the works had been placed, he has made no objection.
12. I cannot see that any material prejudice has been suffered as a result of that defect and none has been advanced. I am therefore prepared to provide dispensation from paragraph 4(5)(c) of Part 2 of Schedule 4 of the 2003 with no conditions for the major works, the contract of which was placed in around March 2021.

JUDGE DOVAR