



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

Case Reference : **MAN/00FF/LDC/2023/0038**

Property : **2 Walmgate, York YO1 9TJ**

Applicants : **2 Walmgate Limited**

Respondent : **Various Leaseholders, list provided**

Type of Application : **section 20ZA Landlord & Tenant Act 1985**

Tribunal Members : **(Judge) Mr Phillip Barber**
Mr N Swain (Valuer Member)

Date : **11 October 2023**

DECISION AND REASONS

Decision

1. The Tribunal grants dispensation from the consultation requirements of section 20 of the Landlord and Tenant Act 1985 under section 20ZA of that Act.

The Application

2. The Applicant is a management company comprised of all leasehold owners of leasehold properties at the development known as 2 Walmgate, York.

3. The application is for dispensation from consultation in relation to urgent and necessary works on a wall on the northern boundary of the garden to the development, boarding the river Foss, in that the wall was in a state of disrepair and had begun to collapse into the river. The works were deemed a risk to the health and safety of residents and visitors to the development and had a potential environmental impact if the wall were to collapse into the river.
4. Email correspondence between Mr Dodd, leaseholder at the development who has taken a leading role in resolving the problem with the wall and his co-leaseholders indicates that discussions concerning the wall had been ongoing for some months with agreement that quotes would be obtained and planning applied for. Planning consent and an appropriate quote were obtained and on 6 May 2023 firm proposals for carrying out the works were put to leaseholders. The correspondence between the leaseholders and management company indicated that delay in carrying out the works would pose an immediate danger from both a health and safety perspective but would also have an environmental impact. The quote from Adamco was for urgent completion of the works in the sum of £28,448.30. The leaseholders at the development agreed to this proposal and works started, we understand, on the 22 May 2023.
5. On the 01 June 2023, the Applicant lodged an application under section 20ZA for dispensation from the consultation requirements under section 20 in relation to qualifying works necessary on the grounds of the development known as 2 Walmgate, York YO1 9TJ.
6. The Applicant indicated that the application could be dealt with on the papers and a Tribunal convened to decide that application today.
7. The Applicant included a list of all leasehold owners of each flat and a separate list of all occupiers of those flats.
8. On the 22 August 2023 a copy of the application to the Tribunal together with the Directions of the Tribunal made on the 22 August 2023 were sent to each leaseholder with a direction that any respondent who opposes the application to respond within 14 days. No opposition to the making of the Order has been received by the Tribunal.

The Law

9. The Tribunal can grant dispensation under section 20ZA in relation to qualifying works if satisfied that it is reasonable to dispense with the consultation requirements set out in section 20 of the 1985 Act.

Reasons for Granting Dispensation

10. The Tribunal can grant dispensation if dispensation from the requirements to consult is reasonable.

11. We are satisfied that it is reasonable to grant dispensation due to the urgent nature of the works, the serious risk to the health and safety of occupiers and visitors at the development and the risk of environmental damage if the wall were to have collapsed. We take into account the following: that some consultation on the works was undertaken by the management company, albeit not to the statutory requirements, and that there were no objections; that the leaseholders were kept informed of the steps being taken to obtain appropriate planning permission; that leaseholders were provided with an opportunity to agree or otherwise a quote from a well-known contractor able to undertake the works urgently; that all leaseholders were in agreement to the proposed works during the initial process of settling the works and that no objection has been made to this application to grant dispensation. We also take into account the potential that had the wall collapsed into the river Foss, then the cost of repairing the structure of the wall and dealing with the environmental damage may well have been significantly more than the cost associated with pre-emptive repairs.
12. In those circumstances dispensation is granted.

Signed 

Phillip Barber (Tribunal Judge)

Date: 12 October 2023