

13068



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

**Case Reference** : **LON/00BE/LDC/2018/0160**

**Property** : **River View Heights, 27 Bermondsey  
Wall West, London SE16 4TN**

**Applicant** : **River View Heights Limited**

**Representative** : **Charles Vitosa of Currell  
Management**

**Respondents** : **The lessees of the flats at the  
property**

**Representative** : **-**

**Type of Application** : **To dispense with the requirement to  
consult lessees about major works –  
S20ZA Landlord and Tenant Act 1985**

**Tribunal Members** : **P M J Casey MRICS**

**Date and venue of  
Hearing** : **7 November 2018  
10 Alfred Place, London WC1E 7LR**

**Date of Decision** : **12 November 2018**

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**DECISION**

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## **Decision of the tribunal**

- (1) The tribunal determines that it is satisfied that it is reasonable to dispense with all or any of the consultation requirements of Section 20 of the Landlord and Tenant Act 1985 and the Service Charges (Consultation Requirements) (England) Regulations 2003 (the Regulations) in respect of what are described in the Application dated 19 September 2018 as urgent works to deal with rain water leaks at River View Heights, 27 Bermondsey Wall West, London SE16 4TN (the property).

## **The application**

1. The applicant seeks a determination pursuant to s.20ZA of the Landlord and Tenant Act 1985 ("the Act") that the consultation requirements of the Act may be dispensed with in respect of certain works at the property.
2. The tribunal issued Directions for the case management of the application on 28 September 2018 and allocated it to the fast track with a paper hearing set down for the week commencing 5 November 2018.
3. The application is not opposed by any of the residential long leaseholders of the flats at the building. The works have been completed.
4. The applicant has provided the tribunal with confirmation that the application and the directions had been communicated to all lessees. It has also, as directed, provided a bundle of documents that it relies on which were read and considered by the tribunal on 7 November 2018.

## **The evidence**

5. In the photographs accompanying the application the property is described as a purpose built residential block of 67 flats with a mixture of 1, 2 and 3 bedroomed flats. The copy lease in the bundle suggests it was built in the late 1990s. Neither the applicant nor any leaseholder requested an inspection and given the photographs and other documents in the hearing bundle the tribunal did not consider one was necessary or proportionate.
6. In the application, Ms Vitosa, the freeholder's property manager, says there is an ongoing leak which is affecting the flat below (6h) from a roof terrace. The works required to remedy this consist of an entire new roof to the terrace. Consultation had not taken place because the managing agents were not aware of the cost involved until mid-September prior to which they did not think the consultation threshold would apply. The works are urgent because of the damage caused to

the flat below from the water ingress. The works have now been carried out in the total sum of £7,656 including VAT by GVW Building Services Ltd and successfully tested. A second estimate had also been obtained from Avalon 3 Ltd in the sum of £7,240 plus VAT. Invoices from this firm and another were included in the bundle in respect of previous attempts to cure the problem in 2017 and earlier in 2018 which involved (4 invoices) a total spent of nearly £5,000. Tested successfully at the time these previous attempts all subsequently failed. The bundle also contained many e-mail complaints from the lessee of flat 6h about the ongoing problem and the damage it was causing.

7. None of the leaseholders in the block have opposed the application to the tribunal but a Mr Field did complain in an e-mail included in the bundle to the managing agents about the way in which they had not included the cost of the works in the application being typical of their secretive style of management. He said he would not be contacting the tribunal but approaching other leaseholders regarding the right to manage.

### **The decision**

8. An application under S20ZA does not involve any consideration of whether or not proposed or completed works are service charge chargeable, the reasonableness of the cost of or of the standard of the works. These all remain issues which it is open to leaseholders to challenge when billed for the works. It is solely concerned with whether or not circumstances exist which justify the landlord doing the works without the need to allow the passage of time required to comply with the various consultation stages either in total or in part.
9. The applicant's only grounds for seeking dispensation are that they needed to deal urgently with its repairing obligation under the lease curing the leak into flat 6h which has now been accomplished. No objections have been raised by the leaseholders. The tribunal is satisfied in all the circumstances to allow the application and to grant dispensation from all of the consultation requirements in respect of the proposed repair works identified in the application. However given 67 flats in the block and a service charge proportion of 1.2% in the one lease enclosed in the bundle it is unlikely the consultation threshold has been reached.

**Name:** P M J Casey

**Date:** 12 November 2018

## **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).