



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

**Case Reference** : LON/00BG/LDC/2019/0048

**Property** : Gun Wharf 124-130 Wapping High Street, London E1W 2NJ/H

**Applicant** : Gun Wharf RTM Company Ltd.

**Representative** : Ms S Pennock

**Respondent** : (1)Various leaseholders including Mr. K Mead (lessee of Flat 18)

**Representative** : Mr. Mead (representing himself only)

**Type of Application** : S20ZA

**Tribunal Member** : Judge LM Tagliavini  
Mr. I Holdsworth FRICS

**Date and place of hearing** : 10 Alfred Place, London WC1E 7LR  
15 May 2019

**Date of decision** : 15 May 2019

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**DECISION**

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**The tribunal's summary decision:**

- I. The tribunal grants the application sought by the Applicant and determines it is appropriate to dispense with the consultation required under section 20 of the Landlord and Tenant Act 1985, in respect of the works to carry out temporary repairs to the fascia panels affixed to the

**property located at Gun Wharf 123-130 Wapping High Street, London E1W 2NJ/H (“the premises”).**

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**The premises**

1. The subject premises comprise an 19<sup>th</sup> Century warehouse converted into 64 residential flats in the mid 1980’s. The front of the premises overlooks Wapping High Street with the rear of the building overlooking the river Thames. Consequently, there is a high volume of traffic passing in front of and behind the premises by members of the public.

**Background**

2. The Applicant seeks the tribunal’s dispensation under section 20ZA of the Landlord and Tenant Act 1985 (“the 1985 Act”), arising for the need to carry out urgent works of repair to the metal fascia panels affixed to the front and rear sides of the subject building. On 13 March 2019 a panel (or part of) was dislodged and had fallen from the building after a period of high winds in the area. This incident was similar to an incident which had occurred in October 2018, when another panel had become dislodged and was left part suspended from the building. This earlier incident had caused the commission of a report by Mr. Christopher Zachariah BA(Hons) MSC MRICS PFCO IRATA of Hallas & Co. (Chartered Surveyors) dated December 2018, detailing the condition of the fascia panels on the building as a result of the warping, cracking and excessive corrosion that was occurring to a number of the panels. This report had concluded by attributing a ‘traffic light’ system to the panels to delineate those that needed urgent removal (red); those panels that were in reasonable condition and were ‘safe’ until 2021 when exterior works were planned and green, for those panels that did not present any problems.
3. Following this report a total of 6 panels were removed (including the panel that had come loose). However, due to the second (March 2019) incident, the Applicant determined urgent works were required to make the building safe for the members of the public using Wapping High Street and for those that used the foreshore of the Thames as well as its own lessees.
4. By a letter dated 15 March 2019 the Applicant’s managing agents Rendall & Rittner Limited sent an initial section 20 notice to the lessees, informing them of the intention to carry out temporary remedial works to the fascia panels. However, these works were carried out and completed by end April 2019, before the full consultation requirements could be met by the Applicant.

**The works**

5. The works carried out necessitated the erection of scaffolding at the front of the building and the use of abseilers at the rear in order to obtain the

quickest method of access to the panels. Initially it had be suggested by Hallas & Co. that the panels should be made secure by way of a frame and netting secured to each panel, but this was reconsidered by the Applicant on the joint recommendation of Hallas & Co and on the advice of a steel specialist, that it would be easier and quicker to refix those fascia panels identified as amber in the December 2018 report, using additional steel bolts. These revised works were approved by the Applicant and completed at or around the last week of April 2019.

### **The Applicant's case**

6. Having made its application, the Applicant followed the directions of the tribunal and notified all lessees if its intentions to seek dispensation from the consultation requirements as the cost of the works exceeded the £250 per lessee allowed under the 1985 Act, without consultation.
7. In response to the notification of the application, 7 lessees notified the tribunal of their support of the application and 1 lessee (Mr. Mead) objected. The remainder of the lessees did not contact the tribunal, although Ms Pennock informed the tribunal, that a number of lessees had contacted her to say, they were in favour of the works being carried out without full consultation. Ms Pennock also told the tribunal that a number of options and alternative works had been considered. However, in light of the potential danger to the public as well as to lessees from falling fascias, the Applicant decided that the works carried out, provided the quickest and most cost effective way in ensuring the panels were made safe, until more permanent works of replacement could be carried out in 2021, when the next major works to the exterior were due.
8. Ms Pennock also informed the tribunal that as the premises were a 'listed' building, various permissions would be required before fascia panels could be permanently removed and replaced. Consequently, there would be a significant delay to permanent works being carried out. Further, the cost of retaining scaffolding to the front and rear of the premises for a lengthy period was both, prohibitive and inconvenient to users of the High Street and the lessees as works affecting the premises by Thames Water had been postponed, as access to the paperwork/stop cocks was prevented due to the presence of the scaffolding.
9. In question by the tribunal and Mr. Mead, it was confirmed by Mr. Jon Hallas of Hallas & Co that the works to the panels that had been carried out had restored them to an 'amber' status defined in his report as *"Defects that need repairing or replacing but are not considered to be either serious or urgent."*

### **The Respondent's case**

10. In his evidence to the tribunal Mr. Mead stated that the hearing was the first occasion on which he had been told that the remedial works had rendered the fascia panels as safe as they previously been deemed to be in the December 2018 report. Mr. Mead complained that he had not

been informed of this previously, despite the enquires he had made of the Applicant and Mr. Hallas. Mr. Mead did not indicate he had been prejudiced by the lack of consultation despite being asked by the tribunal if he could so. Mr. Mead raised concerns as to the cost of the works although accepted scaffolding had been urgently needed although questioned whether permanent works, subject to full consultation could then have been carried out with the scaffolding in situ.

### **The tribunal's decision and reasons**

11. In the absence of objections to the application by the majority of the leaseholders and the absence of any demonstration by Mr. Mead of any prejudice caused to him by the absence of consultation, the tribunal is satisfied it is reasonable and appropriate to grant the dispensation sought. The tribunal is satisfied that urgent works were required pending more permanent works and recognises that these are likely to take an extensive period in their planning and the obtaining of all necessary permissions.
12. The tribunal notes that Mr. Hallas was unable to provide a 100% guarantee that no further panel would come away before their permanent replacement, but is satisfied on the balance of probabilities that the works were both necessary and urgent. However, in granting dispensation the tribunal does not consider the cost or the standard of the works carried out or the issue of whether any service charge costs arising from these works are reasonable or payable.

**Signed: Judge Tagliavini**

**Dated: 15 May 2019**