



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

Case Reference : **LON/00BD/LDC/2017/0029**

Property : **244 Nelson Road, Whitton,
Twickenham, Middlesex TW2 7BW**

Applicants : **The Alan Matthey Trust Corporation
Limited & Mr Steven Matthey**

Representative : **Mr Viran Patel (Property Manager)**
**Mr Sukhjit Walia and Ms Gurdev
Walia**

Respondent : **Mr Rodney Cotton**
**Mr Marc Earnshaw and Ms M
Mulryan**
Mr Erol Franks

Representative : **Unrepresented**

Type of Application : **To dispense with the requirement
to consult lessees about major
works**

Tribunal Members : **Mr Jeremy Donegan (Tribunal
Judge)**
**Mr Kevin Ridgeway MRICS (Valuer
Member)**

**Date and venue of
Determination** : **08 May 2017**
10 Alfred Place, London WC1E 7LR

Date of Decision : **08 May 2017**

DECISION

Decisions of the tribunal

- (1) The Tribunal grants dispensation under section 20ZA of the Landlord and Tenant Act 1985 (“the 1985 Act”) in respect of proposed roof repairs (“the Qualifying Works”) at 244 Nelson Road, Whitton, Twickenham, Middlesex TW2 7BW (‘the Building’).
- (2) No terms are imposed on the grant of dispensation.

The application

1. The Tribunal received an application for dispensation under section 20ZA of the 1985 Act on 20 March 2017 and directions were issued on 24 March 2017.
2. The directions provided that the case would be determined upon the basis of written representations, unless any of the parties requested an oral hearing by 12 April 2017. There has been no request for an oral hearing and the paper determination took place on 08 May 2017.
3. The relevant legal provisions are set out in the Appendix to this decision.

The background

4. The Building is a purpose built block containing four flats. The Applicants are the freeholders of the Building. The Respondents are the long leaseholders of the four flats.
5. The Applicants seek dispensation in relation to the Qualifying Works, which are said to be urgent.
6. The application form contained very brief grounds for seeking dispensation and was accompanied by an email from one of the Respondents, Mr Mark Earnshaw. The Respondents have arranged a quotation for the Qualifying Works from Roof Maintenance London Limited in the sum of £19,903.56 (including VAT). They would like the Applicants to instruct this contractor, rather than undertake a full section 20 consultation.
7. Paragraph 5 of the directions required the Respondents to complete and file response forms with the tribunal, if they wished to oppose the application. None of the Respondents has opposed the application or filed any statement in response to the application.

8. The Tribunal has determined the application based upon the limited information contained in the application form and Mr Earnshaw's email.

The tribunal's decision

9. The Tribunal grants dispensation under section 20ZA of the 1985 Act, in respect of the Qualifying Works. No terms are imposed on this grant of dispensation.

Reasons for the tribunal's decision

10. The Tribunal accepts the Applicants' assertion that Qualifying Works are urgent, as this has not been contested by the Respondents.
11. None of the Respondents have objected to the application or suggested they will be prejudiced if dispensation is granted. To the contrary, they are eager for the works to proceed and have arranged their own quotation. None of the Respondents have suggested that any terms should be imposed on the grant of dispensation.
12. Having regard to the particular facts of this case it is reasonable to dispense with the consultation requirements for the Qualifying Works. However, nothing in this decision prevents the Respondents from seeking a determination of their liability to contribute to the cost of the Qualifying Works, pursuant to section 27A of the 1985 Act.

Name: Tribunal Judge Donegan **Date:** 08 May 2017

Appendix of relevant legislation

Landlord and Tenant Act 1985 (as amended)

Section 27A

- (1) An application may be made to the appropriate 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 the appropriate 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) the appropriate 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.]

Section 20C

- (1) A tenant may make an application for an order that all or any of the costs incurred, or to be incurred, by the landlord in connection with proceedings before a court, residential property tribunal or the Upper Tribunal, or in connection with arbitration proceedings, are not to be regarded as relevant costs to be taken into account in determining the amount of any service charge payable by the tenant or any other person or persons specified in the application.

- (2) The application shall be made—
- (a) in the case of court proceedings, to the court before which the proceedings are taking place or, if the application is made after the proceedings are concluded, to a county court;
 - (aa) in the case of proceedings before a residential property tribunal, to that tribunal;
 - (b) in the case of proceedings before a residential property tribunal, to the tribunal before which the proceedings are taking place or, if the application is made after the proceedings are concluded, to any residential property tribunal;
 - (c) in the case of proceedings before the Upper Tribunal, to the tribunal;
 - (d) in the case of arbitration proceedings, to the arbitral tribunal or, if the application is made after the proceedings are concluded, to a county court.
- (3) The court or tribunal to which the application is made may make such order on the application as it considers just and equitable in the circumstances.

Section 20ZA

- (1) Where an application is made to the appropriate tribunal for a determination to dispense with all of 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.