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

<b>Case Reference</b>	:	LON/00BJ/LDC/2018/0178
<b>Property</b>	:	Ship House, 35 Battersea Square, Battersea, London, SW11 3RA
<b>Applicant</b>	:	Together Property Management, managing agents, on behalf of The Creeship Partnership
<b>Respondents</b>	:	The 10 long leaseholders of Ship House whose names are attached to this decision
<b>Type of Application</b>	:	Dispensation with Consultation Requirements under section 20ZA Landlord and Tenant Act 1985.
<b>Tribunal Members</b>	:	Judge Robert Latham
<b>Date and venue of Hearing</b>	:	5 December 2018 at 10 Alfred Place, London WC1E 7LR
<b>Date of Decision</b>	:	5 December 2018

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**DECISION**

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The Tribunal grants this application to dispense unconditionally with the consultation requirements imposed by section 20 of the Landlord and Tenant Act 1985.

## Reasons

1. By an application made on 5 November 2018, the Applicant, managing agents, seeks dispensation with the consultation requirements imposed by section 20 of the Landlord and Tenant Act 1985 ("the Act") in respect of the works described below. The Applicant stated that it was content for the application to be dealt with on the papers. No Respondent has requested an oral hearing.
2. Ship House comprises ground floor offices with ten apartments above and residents parking to the rear. The construction is mainly flat roof with a parapet, the walls are brick faced, the windows are timber with brick sills and the rainwater goods are internal to the building. The top floor flats have roof gardens.
3. Following heavy rainfall on 29 May 2018, Flats 3 and 4 experienced water flooding. The managing agents instructed KBK Property Services Ltd ("KBK") to attend and investigate. On 31 May, KBK sent a quotation for scaffolding together with details of the further investigations which they needed to undertake externally at high level.
4. On 1 June, the managing agents wrote to all leaseholders advising them of the action which was proposed (see p.47). The cost of erecting the scaffolding was estimated at £2,200 + VAT. The managing agents stated that they would be applying to this Tribunal for dispensation. On 4 June, the managing agents sent separate e-mails to Flats 3, 4 and 10 in order to secure access (see p.49-52).
5. The managing agents asked the builders to proceed with the erection of scaffolding and the report back on their investigations. On completion of the investigations, repairs were executed to abate the ingress of water into Flats 3 and 4. KBK subsequently found that a leak around the terrace of Flat 10 needed redressing. On 6 August, the managing agents informed the leaseholders of the cost of the works, an additional £2,495 + VAT (see p.55-6).
6. Whilst the contractors were on site, a report was received that Flat 9 was also suffering from water penetration. On 29 August, the managing agents informed the leaseholders of the further works required at a cost of £1,350 +VAT (at p.57-8)
7. On 7 November, the Tribunal gave Directions and allocated the case for a paper determination. The landlord was directed to (i) send each of the tenants either by hand or first class post copies of the application and the Directions; and (ii) display a copy of these documents in a prominent position in the common parts of the property. The landlord was directed to immediately confirm to the Tribunal that it had done this. On 8 November, the Tribunal purported to send a copy of the

Directions to the Applicant. Unfortunately, a copy of the Directions was not enclosed and these were provided, on request, on 22 November.

8. On 23 November, the managing agents confirmed that they had sent a copy of the application form and directions to each of the tenants and would display a copy in the communal hallway.
9. Any leaseholder who opposed the application was directed to complete a form attached to the Directions which was to be returned to the Tribunal. Any such tenant was further directed to send to the landlord a statement in response to the application with copies of any documents upon which they intended to rely. No tenant has returned the requisite form to the Tribunal opposing the application.
10. By 28 November, the managing agents were directed to send the Tribunal (and any leaseholder who opposed the application) a Bundle of Documents. On 27 November, the managing agents sent the Tribunal a Bundle of Documents.
11. Section 20ZA(1) of the Act provides:

“Where an application is made to the appropriate tribunal for a determination to dispense with all or 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.”
12. The only issue which this Tribunal has been required to determine is whether or not it is reasonable to dispense with the statutory consultation requirements. **This application does not concern the issue of whether any service charge costs will be reasonable or payable.**
13. The Tribunal is satisfied that it is reasonable to grant dispensation from the consultation requirements. This is justified by the urgent need for the works to abate the water penetration and to prevent further damage to the flats. The additional works were executed whilst the scaffolding was in situ and there was access to the external areas. Were the landlord to have embarked on the statutory consultation procedures, it would merely have delayed the works. There is no suggestion that any prejudice has arisen. In the circumstances, it is appropriate to grant dispensation without any conditions.
14. The Applicant is directed to send a copy of this decision by first class mail to each of the tenants and to display a copy in the communal area.

**Judge Robert Latham, 5 December 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).