



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

Case Reference	:	LON/00AY/LDC/2019/0036
Property	:	31-33 Chester Way, Kennington London SE11 4UR
Applicant	:	31-33 Chester Way Management Limited
Representative	:	Bridgeford and Co
Respondents	:	Various leaseholders of the nine flats that comprise the property. The details of which are on the application
Representative	:	None
Type of Application	:	An application under section 20ZA of the Landlord and Tenant Act 1985 for dispensation from consultation prior to carrying out works
Tribunal Member	:	Mr I B Holdsworth FRICS MCI Arb
Date and venue of Hearing	:	8th April 2019, 10 Alfred Place, London WC1E 7LR
Date of Decision	:	8th April 2019

DECISION

Decisions of the Tribunal

The Tribunal determines that dispensation should be given from all the consultation requirements in respect of the work to repair the roof, guttering and pointing to brickwork (defined as “the Works”) at 31-33 Chester Way, Kennington London SE11 4UR as required under s.20ZA of the Landlord and Tenant Act 1985 (“the Act”) for the reasons set out below.

The application

1. The Applicant seeks a determination pursuant to s.20ZA of the Landlord and Tenant Act 1985 (“the 1985 Act”) to dispense with the statutory consultation requirements prior to carrying out a necessary scheme of works, “the Works”, to 31-33 Chester Way Kennington London SE11 4UR “the property”.
2. An Application was received by the First-tier Tribunal dated 15th February 2019 seeking dispensation from the consultation requirements. Directions were issued on the 6th March 2019 to the Applicant. These Directions required the Applicant to advise all respondents of the application and provide them with details of the proposed works.
3. The relevant legal provisions are set out in the Appendix to this decision.

The hearing

4. This matter was determined by written submissions. The Applicant submits a bundle of relevant materials to the Tribunal.
5. No submissions are received from the Respondents.

The background

6. The property which is the subject of this application, is a three-storey building of purpose built flats dating from the late nineteenth century. The Tribunal are told the residents of the upper flats suffered water ingress through a defective roof covering in early January 2019. A contractor was instructed to inspect and they identified more comprehensive defects with the building including damage to the guttering and external brickwork. pointing

7. The Applicants advise that extensive damage was being caused to the interior of the upper floor flats by the water penetration. To prevent further damage urgent repair work to the guttering was undertaken by the contractor at the time of their investigative inspection.
8. A single quotation for the Works is obtained from Maddox Construction Services. This is dated 15 January 2019 reference IPM/MCC/2690-1 and is in the sum of £2,250 plus VAT.
9. The applicant contends that the repairs are needed urgently for the following reasons:
 - Penetrating water was causing harm to the occupiers of the upper flats and extensive damage to the fabric of the building. It was essential the necessary repair work was undertaken immediately to mitigate water ingress quickly;
 - Any delay in rectifying the penetrating water would cause further damage to the building particularly the exterior brickwork and interiors of the upper flats; and
 - The damaged guttering repair, which was carried out at the time of the investigative inspection was done at that time because access to the damaged guttering was available. By avoiding subsequent scaffolding charges the cost of those works were reduced. They were also urgently needed to prevent further water ingress.
10. Prior to my determination I had available a bundle of papers which included the application, the directions, a copy of a quote prepared by Maddox Construction Services {Estimate reference IPM/MCC/2690-1,} dated 15^h January 2019.
12. A copy of a specimen lease dated 2nd December 1988 is also supplied.
13. The only issue for me to consider is whether or not it is reasonable to dispense with the statutory consultation requirements in respect of the Works. This application does not concern the issue of whether any service charge costs are reasonable or payable.

The determination

14. I have considered the papers lodged. There is no objection raised by the Respondents, either together or singularly.
15. There is a demonstrated need to carry out the Works urgently to prevent water penetrating into the upper flats. It is essential this was prevented for the wellbeing and safety of the tenant of the second floor flats and the other property occupiers.

16. It is for these reasons that I am satisfied it is appropriate to dispense with the consultation requirements for the Works as specified on the Maddox Construction Services quotation {IPM/MCC/2690-1}. It is noted no competitive quotes were submitted with the Application. My decision does not affect the right of the Respondents to challenge the costs or the standard of work should they so wish.
17. **In accordance with paragraph 11 of the Directions, it is the applicants responsibility to serve a copy of the tribunal's decision on all respondent leaseholders listed on the Application.**

Valuer Chairman Ian B Holdsworth

8th April 2019

Appendix of relevant legislation

Section 20 of the Act

- (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) a leasehold valuation 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.

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).