



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

Case reference : **LON/00AR/LDC/2020/0115**

**HMCTS code
(paper, video,
audio)** : **P: PAPERREMOTE**

Property : **St David's Court, 296 South Street
Romford, Essex, RM1 2AJ**

Applicant : **Southern Land Securities Ltd**

Representative : **Together Property Management**

Respondent : **Long Residential leaseholders in the
property as set out in the schedule
attached to the application**

Representative : **None**

Type of application : **To dispense with the requirements to
consult leaseholders pursuant to s20ZA
of the Landlord and Tenant Act 1985**

Tribunal members : **A Harris LLM FRICS FCIArb**

Venue : **10 Alfred Place, London WC1E 7LR**

Date of decision : **19 October 2020**

DECISION

Covid-19 pandemic: description of hearing

This has been a remote decision on the papers which has not been objected to by the parties. The form of remote hearing was P:PAPERREMOTE, A face-to-face hearing was not held because it was not practicable, and all issues could be determined on paper. The documents that I was referred to are in a bundle of 75 pages, the contents of which I have noted. The order made is described at the end of these reasons.

Decisions of the tribunal

The application

1. The Applicant seeks dispensation from the consultation requirements under section 20 ZA of the Landlord and Tenant Act 1985 and the Service Charges (Consultation Requirements) (England) Regulations 2003.
2. The relevant legal provisions are set out in the Appendix to this decision.

The hearing

3. A written application was made by Together Property Management, the managing agents on behalf of the freeholder, Southern Land Securities Ltd.
4. The bundle contains the application setting out the reason for the application which concerns remedial works to alleviate dampness appearing in flat 9. The tribunal issued directions on 28 August 2020 requiring details of the application to be displayed at the property and sent to all leaseholders inviting representations. No representations were received.

The background

5. The property which is the subject of this application is a small block of flats built circa 1990 of cavity brick beneath a pitched tiled roof. The flat suffering from dampness is in the roof space of the property with all windows being either Velux lights or dormer windows.
6. The application includes a surveyor's report and a contractors estimate in the total sum of £4035 for remedial works including providing scaffolding to the property, supplying and fitting 18 roof tile vents and replacing a defective lead back gutter.
7. Due to the urgency of dealing with water penetration with winter coming on the managers do not wish to wait until completion of the statutory consultation period.

8. The relevant repairs fall under the landlord's repairing obligations subject to recovery of the cost under the service charge provisions.

The tribunal's decision

9. The tribunal grants dispensation from the consultation requirements of section 20 ZA of the Landlord and Tenant Act 1985 and the Service Charges (Consultation Requirements) (England) regulations 2003.

Reasons for the tribunal's decision

10. The works are required to ensure the watertight integrity of the building is maintained. The tribunal is satisfied that the works are urgent to avoid further damage and the tribunal is therefore satisfied that dispensation should be granted.

Name: A Harris LLM FRICS FCI Arb **Date:** 19 October 2020

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).

Appendix of relevant legislation

S20 Limitation of service charges: consultation requirements

- (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.^[FN1]

^[FN1] ss.20-20ZA substituted for s.20 subject to savings specified in SI 2004/669 art.2(d)(i)-(vi) by Commonhold and Leasehold Reform Act (2002 c.15), Pt 2 c 5 s 151

S20ZA Consultation requirements: supplementary

- (1) Where an application is made to a leasehold valuation 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.
- (2) In section 20 and this section—
"qualifying works" means works on a building or any other premises, and
"qualifying long term agreement" means (subject to subsection (3)) an agreement entered into, by or on behalf of the landlord or a superior landlord, for a term of more than twelve months.
- (3) The Secretary of State may by regulations provide that an agreement is not a qualifying long term agreement—
 - (a) if it is an agreement of a description prescribed by the regulations, or
 - (b) in any circumstances so prescribed.
- (4) In section 20 and this section "the consultation requirements" means requirements prescribed by regulations made by the Secretary of State.
- (5) Regulations under subsection (4) may in particular include provision requiring the landlord—
 - (a) to provide details of proposed works or agreements to tenants or the recognised tenants' association representing them,
 - (b) to obtain estimates for proposed works or agreements,
 - (c) to invite tenants or the recognised tenants' association to propose the names of persons from whom the landlord should try to obtain other estimates,
 - (d) to have regard to observations made by tenants or the recognised tenants' association in relation to proposed works or agreements and estimates, and
 - (e) to give reasons in prescribed circumstances for carrying out works or entering into agreements.
- (6) Regulations under section 20 or this section—
 - (a) may make provision generally or only in relation to specific cases, and
 - (b) may make different provision for different purposes.

(7) Regulations under section 20 or this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.[...] [FN1]

[FN1] ss.20-20ZA substituted for s.20 subject to savings specified in SI 2004/669 art.2(d)(i)-(vi) by Commonhold and Leasehold Reform Act (2002 c.15), Pt 2 c 5 s 151