



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

Case reference : **LON/00AW/LDC/2020/0079 P**

Property : **26 Holland Park, London W11 3TD**

Applicant : **Northumberland and Durham Property
Trust Limited**

Representative : **D & G Block Management Limited**

Respondent : **The Leaseholders as per the
application**

Representative : **none**

Type of application : **Dispensation under s20ZA Landlord
and Tenant Act 1985**

Tribunal member : **Tribunal Judge Dutton**

Date of decision : **8th September 2020**

DECISION

Decisions of the Tribunal

- (1) This has been a remote determination on the papers, which has not been objected to by the parties. A face to face hearing was not held because it was not practicable and all issues could be determined on papers before me as was requested by the applicant in its application. The documents that I was referred to are in a bundle of some 106 pages including the application and directions, the contents of which I have noted.
- (2) I determine that dispensation should be granted from the consultation requirements under s20 of the Landlord and Tenant Act 1985 (the Act) and the Service Charges (Consultation Requirements) (England) Regulations 2003 for the reasons I have stated below.
- (3) I make no determination the reasonableness of the costs of the works, these being matters which can be considered, if necessary, under the provisions of s27A and s19 of the Act.

The application

1. The applicant sought dispensation from the consultation provisions in respect of urgent works to the guttering, lead work and front facade of the property at 26 Holland Park, London W11 3TD (the Property), which required scaffolding. The Property, a mid 19th century villa conversion, contains five flats and is Grade II listed.
2. In the papers provided were email exchanges with Rahim Dhanani the leasehold owner of flat 3 concerning damage caused to his property. These email exchanges commenced in September 2019. Despite investigations it appears that the initial repair works were unsuccessful. A somewhat disjointed email chain indicates that further works were tried in December 2019 but were again unsuccessful. On 16th January 2020 the managing agents D&GBM wrote to the leaseholders with a Notice of Intention stating that scaffolding was to be erected to enable a full investigation of the problem causing water ingress to flat 3 and to carry out necessary repairs. By an email dated 9th March 2020 Mr Dhanani confirmed that the leakage had been resolved.
3. Two estimates were obtained, one from Olive Square and one from Hayden Builders in the sums of £4,730 and £7,750 respectively, excluding VAT. It was decided to proceed with Olive Square who appeared to have undertaken the successful repair works in February 2020.
4. In the directions dated 10th July 2020 the leaseholders were asked to return a questionnaire indicating whether they objected to the

application and wanted an oral hearing. I am not aware of any leaseholder objecting to the application.

5. I am unaware of the situation with regard to the internal decorations, which it would seem is the subject of an insurance claim. The external works it seems, are not covered by insurance, they being maintenance issues.

Findings

6. The Law applicable to this application is to be found at s20ZA of the Act. I have borne in mind the Supreme Court decision in Daejan and Benson. The applicant has undergone some elements of the dispensation process, certainly in providing the Initial Notice and two quotes. Further it seems clear to me that the façade/lead work to the front of the Property, for whatever reason, is in a state of disrepair, which has caused internal damage to Mr Dhanani's flat. The investigations and attempted repairs had been ongoing, without success, and it seems appropriate that scaffolding should be erected to enable proper investigation and repair works to take place. I therefore find that it is reasonable to grant dispensation from the consultation requirements required under s20 of the Act.
7. It will be for the applicant to satisfy any leaseholder that the costs of the works and the works themselves were reasonable and payable under the service charge regime of the leases by which the leaseholders own their interest in their respective flats. My decision is in respect of the dispensation from the provisions of s20 of the Act only.

Andrew Dutton

**Name: Tribunal Judge
Dutton**

Date: 8th September 2020

ANNEX – RIGHTS OF APPEAL

1. **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 at the Regional Office which has been dealing with the case.**
2. **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.**
3. **If the application is not made within the 28-day time limit, such application must include a request to 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.

- 4. The application for permission to appeal must identify the decision of the Tribunal to which it relates (ie 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**