



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

Case Reference : **CAM/00KF/LDC/2021/0045**
HMCTS Code : **P: PAPER REMOTE**

Property : **Sea Watch, 40 Pleasant Road,
Southend-on-Sea, Essex SS1 2HJ**

Applicant : **Sea Watch (Management)
Limited**

Respondents : **The leaseholders of the property**

Type of Application : **For dispensation of the
consultation requirements
under section 20ZA**

Tribunal Member : **Judge Wayte**

Date of decision : **20 December 2021**

DECISION

Covid-19 pandemic: description of hearing

This has been a remote hearing on the papers which has been not objected to by the parties. A face-to-face hearing was not held because all issues could be determined in a remote hearing on paper and no hearing was requested. The documents that I was referred to are in a bundle consisting of the application, directions, sample lease and letter to the leaseholders in accordance with the directions, the contents of which I have noted. The order made is described below.

The Tribunal determines that an order for dispensation under section 20ZA of the 1985 Act shall be made dispensing with all of the consultation requirements in relation to the works to the rear wall described below.

The application

1. The applicant seeks an order pursuant to s.20ZA of the Landlord and Tenant Act 1985 (as amended) (“the 1985 Act”) for the dispensation of any or all of the consultation requirements in respect of urgent works to the rear wall which has been found to be structurally weak.
2. The respondents are the leaseholders of the flats and members of the management company.
3. The issue in this case is only whether the consultation requirements of section 20 of the 1985 Act should be dispensed with. If there is any objection to the cost of the works that may be the subject of a separate application under section 27A of the Landlord and Tenant Act 1985. In particular, the issue was discovered following development of a neighbouring property. The tribunal does not know whether the development has affected the stability of the wall but that is not an issue for this application.

The background

4. The application is dated 27 October 2021. Directions were given on 12 November 2021. Those directions required the applicant to serve the application and a copy of the directions on each respondent which the applicant confirmed was sent out on 16 November 2021. The directions contained a reply form for them to return to the tribunal if they objected to the application. Nothing has been received by the tribunal and the applicant has also confirmed that no objections were received in respect of the application.
5. The directions provided that this matter would be considered by way of a paper determination unless a hearing was requested. A hearing was not requested and on a review of the hearing bundle the tribunal was satisfied that the matter could be determined fairly and justly in accordance with the overriding objective without one.
6. The tribunal did not consider that an inspection was necessary, nor would it have been proportionate to the issues in dispute.
7. The only issue before the tribunal is whether it should grant dispensation from all or any of the consultation requirements contained in section 20 of the 1985 Act.

The Applicant’s case

8. The application stated that following development to a neighbouring property, the boundary wall belonging to Sea Watch was found to be

very unstable and liable to collapse, potentially causing serious injury or death. An engineer advised that the cheapest solution was to install ground anchors to secure the structure. It appears that the developers of the neighbouring property threatened to seek damages against the management company if the issue was not resolved quickly.

9. The letter dated 16 November 2021 stated that the cost of the works would be £11,688.54. There were sufficient funds in the Reserve to cover the costs.

The Respondents' position

10. The directions provided for the respondents to complete the reply form attached to the directions and send it to the tribunal and the applicant if they wished to object to the application.
11. As stated above, no objections have been made. In the circumstances the tribunal concludes that the application is unopposed.

The Tribunal's decision

14. The Tribunal determines that an order for dispensation under section 20ZA of the 1985 Act shall be made dispensing with all of the consultation requirements in relation to the works outlined above.

Reasons for the Tribunal's decision

15. The tribunal has the jurisdiction to grant dispensation under section 20ZA of the 1985 Act "*if satisfied that it is reasonable to dispense with the requirements*".
16. The application was not opposed by the leaseholders. Given the urgency and potential claim against the management company (and risk of injury) it is clearly sensible to proceed with the works without further delay.

Application under s.20C Landlord and Tenant Act 1985

17. There was no application for any order under section 20C before the tribunal.

Name: Judge Wayte

Date: 20 December 2021

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).