



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

Case reference : **LON/00AW/LDC/2020/0205 P**

Property : **50 – 52 Lexham Gardens, London W8 5JA**

Applicant : **50 – 52 Lexham Gardens Limited**

Representative : **Astbury Property Services Limited**

Respondent : **The 12 leaseholders at the Property whose details are annexed to the application**

Representative : **none**

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

Tribunal member : **Tribunal Judge Dutton
Miss M Krisko BSc (Est Man)
FRICS**

Date of decision : **2nd February 2021**

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 considered practicable and all issues could be determined on papers before us, as was requested by the applicant in its application. The documents that we were referred to are in a bundle of some 60 pages including the application and directions, the contents of which we have noted.
- (2) We 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 we have stated below.
- (3) We 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. In an application dated 10th November 2020, the applicant sought dispensation from the consultation provisions in respect of urgent works to pipework at the front of the building at 50 - 52 Lexham Gardens (the Property). The Property is a double fronted late Victorian building converted into 12 flats. The leaseholders are the owners of the freehold applicant company and four leaseholders are its directors.
2. It appears that notwithstanding works to the exterior of the Property in 2019, the current problem with drainage from the balcony at flat 12, which passes down through the wall of flat 10 and then externally, was not discovered. A scaffolding tower was erected in October 2020 to investigate ongoing water penetration to flat 10. The cause of the problem was discovered and is admirably set out in a report from Steve Way MRICS, a surveyor with Collier Stevens dated 9th November 2020 to which some very helpful and explanatory photographs are appended. The problem is there for all to see.
3. As a result of the investigations, it was apparent that works were required urgently, the more so as the scaffolding was in place and flat 10 was then empty. It would appear from the application that the works have been commenced. The estimated costs including VAT, professional costs and fees gives total of £12,600, to be distributed as set out in an email to the leaseholders from Marc Galberg a director of the managing agents, Astbury Property Services Limited, dated 10th November 2020.

4. Directions were issued on 24th November 2020 requesting that any leaseholder who objected to the application should notify the applicant and complete and return to the tribunal a questionnaire. By an email dated 25th November 2020, Candy Lam of Astbury Property Services Limited confirmed that the directions had been complied with and that no leaseholder had contacted her to object. There were some emails in the bundle showing agreement with the proposed actions of the applicant. Similarly, we are not aware that any leaseholder has been in contact with the tribunal to object to the application.

Findings

5. The Law applicable to this application is to be found at s20ZA of the Act. We have borne in mind the Supreme Court decision in Daejan and Benson. So far as we are aware no objection has been lodged by a leaseholder. It would seem clear from the report of Mr Way that these works have been discovered since further investigations took place, using the scaffolding tower that had been erected for such investigative works and more so as flat 10 was empty, which would greatly facilitate the works required internally. On the face of it we can see no prejudice to the respondents by allowing this application. We therefore find that it is reasonable to grant dispensation from the consultation requirements required under s20 of the Act in respect of the works set out in the report of Mr Way dated 9th November 2020.
6. 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. our decision is in respect of the dispensation from the provisions of s20 of the Act only.

Andrew Dutton

**Name: Tribunal Judge
Dutton**

Date: 2nd February 2021

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**