FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case Reference	**:**	**LON/00AW/LDC/2021/0009**
Property	**:**	**21 Sheffield Terrace, Kensington, London W87NQ ("The Building")**
Applicant	**:**	**Pitt Kensington Estate ("the Landlord")**
Representative	**:**	**D &G Management Limited**
Respondents	**:**	**All leaseholders of the premises ("the tenants")**
Representative	**:**	**N/A**
Type of Application	**:**	**For dispensation from the consultation requirements under section 20ZA Landlord & Tenant Act 1985**
Tribunal Member	**:**	**Judge Jim Shepherd**
Date of Decision	**:**	**10th March 2021**

DECISION

The Applicant is given dispensation from the consultation requirements contained in s.20 Landlord and Tenant Act 1985 in order to carry out urgent pipe repairs as specified in their application.

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 dispensation from all or part of the consultation requirements imposed on them by section 20 of the 1985 Act[1].

2. The applicant is the freeholder of premises at 21 Sheffield Terrace, Kensington, London W87NQ ("The Building"). The building is a six storey property. The roof coverings are slate mansard with clay coverings with a felt mansard crown. There is a lead flat roof present above the projecting elevation.

3. The applicant seeks dispensation for urgent works to the roof. On carrying out investigations into water ingress it was discovered that an external cast iron pipe was damaged. Access was available through a flat. This opportunity was seized to carry out the works necessary without the additional cost of scaffolding. The damage to the common parts will be met through the insurance policy failing which consultation will be needed. The cost of the roof works totals £3846.

4. The tribunal did not consider that an inspection of the Building was necessary, nor would it have been proportionate to the issues in dispute.

5. The only issue for the tribunal is whether or not it is reasonable to dispense with the statutory consultation requirements of section 20 of the 1985 Act. T**his application does not concern the issue of whether any service charge costs will be reasonable or payable.**

The Tribunal's decision

6. The Tribunal determines that an order from dispensation under section 20ZA of the 1985 Act shall be made dispensing with all of the consultation requirements in relation to the said roof works.

Reasons for the Tribunal's decision

7. 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"*.

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[1] See Service Charges (Consultation Requirements) (England) Regulations 2003 (SI2003/1987) Schedule 4, Part 2.

8. In making its decision the tribunal had regard to the fact that the applicant has apparently sought to save costs by carrying out works when there was an opportunity for access. This seems eminently sensible.

9. It is not considered that the lessees have suffered any particular prejudice as a result of the failure to follow the correct consultation procedure (see Daejan Investments Ltd v Benson [2013] UKSC 14.) The Tribunal accepts that the landlord's intentions to carry out the works as soon as possible are genuine in order to preserve the integrity of the building.

10. Again the parties should note that this decision does not concern the issue of whether any service charge costs will be reasonable or payable. The tenants have the right to challenge such costs by way of a separate application if they so wish.

Name: Jim Shepherd **Date:** 10th March 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).