



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

Case Reference: LON/00AY/LDC/2021/0032 P

HMCTS code: P: PAPERREMOTE

Property: 27 Gipsy Hill London SE19 1QG

Applicant: Long Term Reversions (Torquay)
Limited

Representative : Parkfords Management Ltd

Respondent: The leaseholders listed in a schedule to
the application

**Type of
Application:** To dispense with the statutory
consultation requirements under
section 20ZA Landlord and Tenant Act
1985

Tribunal: Judge Pittaway

Date of decision: 20 April 2021

DECISION

Covid-19 pandemic: description of hearing

This has been a remote hearing on the papers which has been consented to by the applicant and not objected to by any respondent. The form of remote hearing was P:PAPERREMOTE. A face-to-face hearing was not held because no-one requested a hearing and all issues could be determined on paper.

The documents to which the tribunal was referred are the application (which included a specimen lease, that of Flat 1), the Directions issued by the tribunal dated 10 March 2021, Notices of Intention dated 18 January 2021, a specification for structural Bressummer renewal by Mr A Wyncoll of LBB Chartered Surveyors of January 2021, an invoice for scaffolding dated 24 January 2021 from PML Construction for £2,088 and structural calculations prepared by YES Engineering Group Limited for LBB Chartered Surveyors.

The tribunal's decision is set out below.

DECISION

The Tribunal grants the application for retrospective dispensation from statutory consultation in respect of the subject works, namely the replacement of a supporting beam to the bay roof above Flat 4 and associated works.

This decision does not affect the Tribunal's jurisdiction upon any future application to make a determination under section 27A of the Act in respect of liability to pay, for a reason other than non-consultation in respect of the subject works, and the reasonableness and/or the cost of the subject works.

The Application

1. The applicant seeks a determination pursuant to section 20ZA of the Landlord and Tenant Act 1985 (the 'Act') for retrospective dispensation from consultation in respect of works to the Property. These are described in the application as the replacement of a supporting beam to the bay roof above Flat 4 and associated works (the '**works**').
2. The Service Charges (Consultation Requirements) Regulations 2003 provide that consultation requirements are triggered if the landlord plans to carry out qualifying works which would result in the contribution of any tenant being more than £250. The application did not state what each leaseholder's contribution to the cost of the works would be, but indicated that it would be in excess of £250 per flat.

3. By directions dated 10 March 2021 (the '**directions**') the tribunal directed that the applicant by 17 March 2021 send each leaseholder and any residential sublessees the application and the directions and confirm to the tribunal that this had been done by 17 March. The applicant confirmed that it had done this.
4. The directions provided that if any leaseholder/sublessee objected to the application he/she should do so, to the applicant and the tribunal, by 31 March 2021. The tribunal received no objections, and none have been included in the bundle provided to the tribunal by the applicant.
5. The directions provided that the tribunal would decide the matter on the basis of written submissions unless any party requested a hearing. No such request has been made.

The applicant's case

6. The applicant is the freeholder of the Property. The Property is not described in the application but appears to be a building in which there are six flats, and is so described in the specimen lease provided.
7. The specimen lease provided contains a covenant by the tenant to contribute one sixth of the costs of the landlord performing certain obligations, which include repair of the structure of the Property.
8. The need to replace the beam was discovered during the course of works to remedy water ingress in respect of which section 20 consultation had taken place (the '**section 20 works**'). The applicant seeks dispensation from the full consultation process in respect of the works as the section 20 works, which were in the course of being undertaken, cannot proceed until the beam has been replaced. There are ongoing costs in connection with the section 20 works, including costs for scaffolding hire.
9. A Notice of Intention in relation to the works was served on the leaseholders on 18 January 2021.

Responses from the respondents

10. The applicant's bundle did not contain any response from the respondents and the tribunal did not receive any objection from any leaseholder.

Determination and Reasons

11. Having considered the application and the documents provided, the tribunal determines as follows.

12. Section 20ZA(1) of the Act provides:

“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.”

13. The tribunal determines, having regard to

- the decision in *Daejan Investments Ltd v Benson and others* [2013] UKSC 14 (*‘Daejan’*),
- the consultation which the applicant has undertaken with the respondents,
- that no objection has been received from any respondent, and
- the stated need for the works,

that the respondents are not prejudiced by the works and it is reasonable to dispense with the consultation requirements.

14. The purpose of section 20ZA is to permit a landlord to dispense with the consultation requirements of section 20 of the Act if the tribunal is satisfied that it is reasonable for them to be dispensed with. Whether or not the respondents are liable for the cost of the works by reason of any statutory provision other than section 20ZA, and whether the works are carried out to a reasonable standard and at a reasonable cost are not matters which fall within the jurisdiction of the tribunal in relation to this present application. This decision does not affect the tribunal’s jurisdiction upon any future application to make a determination under section 27A of the Act in respect of liability to pay and the reasonableness and /or cost of the works.

15. The applicant is reminded that, as stated in the Directions, it is the responsibility of the applicant to serve a copy of this decision on all respondents.

Name: Judge Pittaway Date: 20 April 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 Tribunal 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 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.

4. 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.