



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

Case reference : **LON/00AN/LDC/2022/0243**

HMCTS code : **P: PAPER REMOTE**

Property : **77 Comeragh Road, London W14 9HS**

Applicant : **Foxglade Properties Limited**

Representative : **Michael Richards & Co**

Respondents : **The Leaseholders of 77 Comeragh Road**

Type of application : **Dispensation with Consultation
Requirements under section 20ZA
Landlord and Tenant Act 1985**

Tribunal member : **Judge Robert Latham**

Venue : **10 Alfred Place, London WC1E 7LR**

Date of decision : **6 March 2023**

DECISION

The Tribunal grants this application to dispense with the consultation requirements imposed by section 20 of the Landlord and Tenant Act 1985 without condition in respect of major works which included external decorations and repairs and the replacement of the roof.

Covid-19 pandemic: description of hearing

This has been a remote hearing which has not been objected to by the parties. The form of remote hearing was P:PAPER REMOTE. The Directions provided for the application to be determined on the papers unless any party requested a hearing. No party has requested a hearing. The applicant has filed a bundle in support of the application.

The Application

1. On 14 November 2022, Michael Richards and Co, managing agents for the Applicant landlord, applied for retrospective dispensation from the statutory duty to consult in respect of major works which included external decorations and repairs and the replacement of the roof at 77 Comeragh Road, Kensington, London, W14 9HS ("the Property"). The Property is a converted block of self-contained flats which were constructed in about 1880. In the 1980s, the property was converted to create five flats. The premises have four storeys (basement, ground and three upper floors).
2. On 4 September 2020, the managing agents served a Notice of Intention in respect of external decorations and repairs. There were delays and the managing agents restarted the process in April 2022. It was decided to add roof repairs to the proposed works. Tenders were sought and on 16 June 2022, the managing agents served a Notice of Estimates. Three tenders were returned and the managing agents proposed to accept the lowest tender from Insideandout in the sum of £59,746 + VAT. In September 2022, the managing agents collected the funds for the works from the lessees.
3. On 22 September, the managing agents sought to instruct Insideandout. However, they were told that Insideandout was no longer willing to proceed with the works. PPM Ltd who had provided the second lowest tender were unable to start until December. The managing agents considered that this was too late. The third tender, from JJW, had been much higher at £84,440 + VAT.
4. The managing agents therefore approached Obelisk-London Limited ("Obelisk"). On 11 October, Obelisk returned a tender in the sum of £58,695. This was later adjusted to include additional works which increased the estimate to £63,755 + VAT. This was an increase of £4,009 on the original contract price. On 28 October, the managing agents notified the lessees of their intention to appoint Obelisk to execute the works. The lessees were invited to respond within 7 days if they had any comments. No lessee responded.
5. On 13 January 2023, the Tribunal issued Directions and served both the application and the Directions on the parties.

6. By 10 February 2023, any leaseholder who opposed the application was directed to complete a Reply Form which was attached to the Directions and send it both to the Tribunal and to the Applicant. The leaseholder was further directed to send the Applicant a statement in response to the application. No leaseholder has returned a completed Reply Form opposing the application.
7. The Applicant has provided a Bundle of Documents (75 pages) in support of the application. This includes the lease for the first floor flat.
8. Section 20ZA (1) of the Act provides:

“Where an application is made to the appropriate 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.”
9. **The only issue which this Tribunal has been required to determine is whether or not it is reasonable to dispense with the statutory consultation requirements. This application does not concern the issue of whether any service charge costs will be reasonable or payable.**
10. The Tribunal is satisfied that it is reasonable to grant dispensation from the statutory consultation requirements. This is justified by the urgent need for the works. There is no suggestion that any prejudice has arisen. In the circumstances, it is appropriate to grant dispensation without any conditions.
11. The Directions make provision for the service of the Tribunal’s decision. The Tribunal will email a copy of its decision to the Applicant. The Applicant is responsible for serving a copy of the Tribunal’s decision on the Respondents.

**Judge Robert Latham,
6 March 2023**

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 **by e-mail** 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).