



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

**Case References** : **CHI/29UL/LDC/2015/0011**

**Property** : **Shipway House Marine Parade  
Hythe Kent CT21 6AN**

**Applicant** : **Southern Land Securities Ltd**

**Applicant's  
Representative** : **Hamilton King Management Ltd**

**Respondent** : **Various leaseholders of Shipway  
House as set out on the  
application**

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**Type of Application** : **S20ZA Landlord and Tenant Act  
1985**

**Tribunal Members** : **Judge F J Silverman Dip Fr LLM  
Mr N Robinson FRICS**

**Date and venue of  
paper determination** : **1 May 2015  
Eastbourne Magistrates Court**

**Date of Decision** : **1 May 2015**

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## DECISION

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The Tribunal determines that it will exercise its discretion to dispense with the consultation requirements imposed by s.20 of the Landlord and Tenant Act 1985.

## REASONS

1. The Applicant managing agent seeks a determination of its application for dispensation from the consultation requirements imposed by s. 20 of the Landlord and Tenant Act 1985.
2. The Application to the Tribunal was made on 4 March 2015.
3. Directions were issued by the Tribunal on 9 March 2015.
4. A paper determination took place in Eastbourne on 1 May 2015 at which the Tribunal considered the Applicant's application and accompanying documents together with the representations made by six of the nine Respondent tenants.
5. The property which is the subject of this application is a purpose built block of flats. The Directions issued by the Tribunal and sent by the Applicant to all Respondents asked the Respondents to write to the Tribunal to say whether or not they agreed with the application. Six replies were received by the Tribunal and none of those made representations objecting to the application. The Tribunal makes the assumption that the remaining Respondents who did not respond to the Tribunal had no major objection to the Applicant's proposals.
6. The Tribunal did not inspect the property because to do so would have been disproportionate.
7. The factual situation giving rise to this application is that the Applicant sought estimates to repair a small roof leak to the property. The sum required to repair the leak would not have invoked the consultation requirements of s 20 Landlord and Tenant Act 1985. However, as a consequence of that leak some internal redecoration of the lobby area became necessary and the sum total of the amounts payable by some of the tenants (the proportions of service charge varied in accordance with the individual leases) exceeded the maximum allowable without consultation under the above section.
8. In the light of this discovery, and although the excess over the £250 maximum per unit was minimal and only affected some of the flats, the Applicant made an application to the Tribunal seeking either dispensation from s 20 Landlord and Tenant Act 1985 or a declaration by the Tribunal that the consultation requirements of the Act did not apply to this situation because the repairs to the roof and

- the internal redecorations constituted two separate and distinct contracts. It is understood that the works have not yet commenced.
9. The Tribunal expresses the view that the internal redecorations and roof repairs cannot in this case be viewed as two discrete contracts. This is because the internal redecoration is a consequence of the roof leak. If the roof had not leaked the redecoration would not have been necessary. Secondly, the estimates for the redecoration have been given by the same firm which quoted for the roof repairs and on the same date as the roof repair quote. The two items therefore appear to be inseparable and because, as admitted, their total cost to some of the tenants exceeds £250 per flat, s 20 is invoked.
  10. The Tribunal considers that the circumstances of this particular case do merit the exercise of its discretion to dispense with s 20 consultation. Repairs to a leaking roof are of necessity an urgent task, all the tenants have been informed of the works and of the proposed costs and six of the nine leaseholders have agreed to this application with the remaining three leaseholders not having expressed any objections to it. Further, the amount by which the costs of the works will exceed the £250 maximum per flat is minimal (approximately £61).
  11. The Tribunal is being asked to exercise its discretion under s.20ZA of the Act. The wording of s.20ZA is significant. Subs. (1) 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* (emphasis added).”
  12. The Tribunal understands that the purposes of the consultation requirements is to ensure that leaseholders are given the fullest possible opportunity to make observations about expenditure of money for which they will in part be liable.
  13. Having considered the submissions made by both parties the Tribunal is satisfied that the works carried out by the Applicant are sufficiently urgent and necessary to permit it to exercise its discretion in the Applicant’s favour.
  14. This determination does not affect the tenants’ rights to apply to the Tribunal challenging the payability or reasonableness of the service charges.

Judge F J Silverman as Chairman  
**Date 1 May 2015**

Note:  
Appeals

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application to the First-tier Tribunal at the Regional office which has been dealing with the case.
2. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.
3. If the person wishing to appeal does not comply with the 28-day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28-day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.
4. The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking.