



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

**Case Reference** : **LON/00/BJ/LDC/2014/0041**

**Property** : **Various leasehold Properties of  
Henry Harrison Court,  
Wandsworth Common, North side,  
London SW18 2SR**

**Applicant** : **London Borough of Wandsworth**

**Representative** : **Mr Simon Kiely- Solicitor**

**Respondents** : **All residential long leaseholders of  
Henry Harrison Court**

**Representative** : **Mr Miah flat 6 in person  
representing himself**

**Type of Application** : **Application under section 20ZA to  
dispense with consultation  
requirements**

**Tribunal Members** : **Ms M W Daley  
Mrs E Flint FRICS**

**Date and venue of  
Hearing** : **14 May 2014 at 10 Alfred Place,  
London WC1E 7LR**

**Date of Decision** : **20 June 2014**

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**DECISION**

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## **Decision of the tribunal**

- 1. The tribunal grants the Applicant dispensation from the consultation requirements in respect of Major works of clearing and renewing the felt roof covering ( 45M<sup>2</sup>) of the premises known as Henry Harrison Court.**
- 2. The Grant of the Dispensation from the Consultation requirements is not a determination of the reasonableness or payability of the service charges of £2,020.15 for the total cost of the roof works. Any issues concerning the cost of this work have not been determined by this Tribunal.**

## **The application**

1. The Applicant seeks dispensation under section 20ZA of the Landlord and Tenant Act 1985 (the "1985 Act") from all of the consultation requirements imposed on the landlord by section 20 of the 1985 Act.
2. The application is in respect of work carried out to forty five square metres of the flat roof of the premises known as Henry Harrison Court ("The Premises").
3. The only issue for the tribunal is whether it is reasonable to dispense with the statutory consultation requirements. This application does not concern the issue of whether any service charge costs are recoverable or payable.
4. The application to the tribunal was dated 5 March 2014 and directions were given this matter on 20 March 2014.

## **The background**

5. The properties which are the subject of this application are situated in the premises, a purpose built, four storey, flat-roofed block divided into eight flats. The Respondents are all long leaseholders of the premises.
6. The directions dated 2 March 2014, provided for the Applicant to prepare a bundle for the tribunal's use and serve one copy on any respondent who has indicated that they oppose the application with two copies to the Tribunal.

7. The Respondent's were directed to make a response to the application stating whether or not they agree to the dispensation being given or not.
8. Three leaseholders indicated their consent to the works being carried out. Mr Miah replied by setting out his issues with the work, as such Mr Miah's response was treated as an objection to the works.
9. The matter was set down for an oral hearing to be considered on 14 April 2014.

### **The hearing**

10. The Applicant was represented by Mr Kiely Solicitor, and also in attendance was Mr Mark Crook Senior Estates Officer. Mr Miah the leaseholder of flat 6 was the only leaseholder in attendance. The issues raised by Mr Miah were in relation to his premises and he did not attend in a representative capacity on behalf of any other leaseholder.
11. The background to the application was set out in Paragraph 3 of the Applicant's Statement of full grounds for dispensation. The Applicant's employee received a report on 2 January 2014 of damage causing serious ingress of water into flat 8 on the top floor affecting the lounge of the premises. An order was raised for the Council's "out sourced Environmental and Commercial Services team" to attend and investigate and apply sealant. After an inspection was carried out this was considered insufficient. Approval was sought for the cleaning off and removal of the existing area of roof covering, priming and then the laying of torch on roofing felt with a mineral finish to a 45m<sup>2</sup> section of the roof, this repair was approved and a variation to the works order was issued
12. The work was completed on 29 January 2014. On 31 January 2014 the Applicant wrote to the leaseholders, setting out the nature of the work and the reason why they had not complied with section 20 (consultation requirements) The letter provided a pro forma letter which could be used by the leaseholders to indicate their willingness to dispense with the section 20 process.
13. On 5 March 2014 the applicant made an application under Section 20ZA to dispense with the consultation requirements.
14. On 17 April Mr Miah wrote to the Applicant to set out his concerns with the work.

15. These concerns were written on the basis that Mr Miah was unaware of some of the obligations under the lease, and was also not aware that the repairs had already been carried out. Amongst the matters that he set in his letter was at point 6 the issue that-: Other competitive quotes have not been submitted to the leaseholder to ensure that if the council's quote is value for money..."
16. At the hearing Mr Miah confirmed that this remained a concern. He stated that some of the issues raised had been resolved through discussion with the Applicant's representative such as the leaseholders' obligations under the lease. Mr Miah stated that he was going to consider the lease slowly in detail. He also wanted further detail as to the previous work undertaken to the roof in early 2013, which had been to a separate area of the roof. A copy of the service charge statement was provided to the Tribunal which detailed this work.
17. The Applicant explained that the L B of Wandsworth was divided (for administrative purposes) into 4 areas, and that the repairs were carried out by the council's own in house contractor detailed above or a team of subcontractors. The Council's own contractor applied a Schedule of Rates which had been evaluated to ensure that it was competitively priced, the prices were to be held for 5 years, as a result the Applicant was satisfied that the price charged was competitive. Had the work not been urgent, then the Applicant would have undertaken further tendering.
18. The Tribunal explained to Mr Miah that some of the issues were unrelated to the Application and that any grant of an application to dispense was not a judgement on the reasonableness of the cost of the work or the nature and quality of work, it was solely on whether in these circumstances it was reasonable to grant a dispensation from somewhat lengthy consultation requirements, which although offering a safeguard did not allow work to be undertaken quickly. Mr Miah did not put forward any further issues.

### **The tribunal's decision**

19. We dispense with the statutory consultation requirements of section 20 of the 1985 Act in relation to the work of roof repairs undertaken at the premises and completed on 29 January 2014.

### **Reasons for the decision**

20. We had to consider whether it was reasonable to grant dispensation. The relevant statutory provisions are found in subsection 20ZA (1) of the 1985 Act under heading "Consultation Requirements: Supplementary". That subsection reads as follows: "*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 it is reasonable to dispense with the requirements”.*

21. The Applicant was unable to consult fully under section 20 in relation to the contracts due to the urgent nature of the work. The Applicant referred to severe weather conditions throughout late December 2013 and January 2014.
22. The Tribunal are aware of the very unusual flooding which affected many parts of the country, had the work not been undertaken then in all probability extensive damage would have occurred to the flat and the roof which would have led to the need for more extensive and expensive work..
23. The Applicant had acted with the intention of obtaining “*best value*” for both the Respondents and itself and we are of the view that the Applicant has acted reasonably. The leaseholders will of course enjoy the protection of section 27A of the 1985 Act so that if they consider the costs of the work to be unreasonable they may make an application to the tribunal for a determination of their liability to pay the resultant service charge.
24. For all of the above reasons we conclude that it is appropriate to exercise the discretion conferred on us by section 20ZA of the 1985 Act by dispensing with the consultation requirements in relation to this work.
25. The tribunal directs that the Applicant shall notify all Respondents of the determination of the tribunal.
26. There was no application for costs before the tribunal.

**Chair** Ms M W Daley

**Date** 20 June 2014