



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

Case reference : **LON/00AQ/LDC/2016/0011**

Property : **Queen's Court, Kenton Lane,
Harrow, London HA3 8RN**

Applicant : **Daejan Properties Limited**

Representative : **Hammond Bale Solicitors**

Respondents : **The lessees listed in the schedule to
the application**

Type of application : **To dispense with the requirement
to consult leaseholders**

Tribunal Member : **Judge N Hawkes**

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

**Date of paper
determination** : **10th March 2016**

DECISION

Background

1. The applicant has applied to the Tribunal under S20ZA of the Landlord and Tenant Act 1985 (“the 1985 Act”) for dispensation from the consultation requirements contained in section 20 of the 1985 Act in respect of certain qualifying works to Queen’s Court, Kenton Lane, Harrow, London HA3 8RN (“the Property”).
2. The Tribunal has been informed that the Property is a purpose-built block consisting of 41 two bedroom flats.
3. The application is dated 26th January 2016 and the respondent lessees are listed in a schedule to the application.
4. Directions of the Tribunal were issued on 3rd February 2016. The applicant has requested a paper determination. No application has been made by any of the respondents for an oral hearing. This matter has therefore been determined by the Tribunal by way of a paper determination on Thursday 10th March 2016.
5. The Tribunal does not consider that an inspection of the Property would be of assistance nor would it be proportionate to the issues in dispute.

The applicant’s case

6. The applicant applies for dispensation from the requirements to consult leaseholders under section 20 of the 1985 Act in respect of work to the roof of the Property.
7. A witness statement dated 24th February 2016 has been prepared by Mr Mark Shevlin in support of the applicant’s application which includes the following evidence:

“By way of background information, the Applicant has previously complied with the consultation requirements pursuant to section 20 of the Landlord and Tenant Act 1985 in relation to the works currently being undertaken to the Property’s roof (“the Original Works”).

...

As explained in my letter to the Respondents dated 18th December 2015, the Contract Administrator responsible for overseeing the Original Works has informed the Applicant that the works to the roof are more extensive than originally specified and that additional works are now required. It is those additional works which are the subject matter of the Applicant’s application for dispensation.

As set out in the application the addition urgent works include:

- Replacement of roof tiles which have thinned and require replacing;
- Replacing the detailing to the roof to ensure that the roof is watertight; and
- Replacement of roof elements.

...

The Tribunal is respectfully asked to note that the additional works which are the subject of the application are urgent in nature. There are frequent reports of roof leaks which mean that the additional works are therefore necessary as a matter of urgency and cannot realistically wait until the next cycle of works.

Furthermore, the benefit of the additional works being undertaken urgently is that they can be undertaken simultaneously with the Original Works which are currently being undertaken. The additional works will be an extension of the Original Works and will benefit from economies of scale if they can be carried out urgently as scaffolding is already in place and the site compound has been set up..."

The respondents' case

8. None of the respondents have filed written representations opposing the application. Mr Shevlin gives evidence that, in response to a letter from the applicant dated 23rd December 2015, the applicant has received replies from eight of the respondents confirming that they agree to the additional works being undertaken.

The Tribunal's determination

9. Section 20 of the 1985 Act provides for the limitation of service charges in the event that statutory consultation requirements are not met. The consultation requirements apply where the works are qualifying works (as is the case in this instance) and only £250 can be recovered from a tenant in respect of such works unless the consultation requirements have either been complied with or dispensed with.
10. The consultation requirements are set out in the Service Charges (Consultation Requirements) (England) Regulations 2003.
11. Section 20ZA of the 1985 Act provides that, where an application is made to the Tribunal for a determination to dispense with all or any of the consultation requirements in relation to any qualifying works, the Tribunal may make the determination if satisfied that it is reasonable to dispense with the requirements.

12. Having considered the application; the evidence in support; and the lack of any opposition on the part of the respondents; I accept that the qualifying works described in the applicant's application of 26th January 2016 are urgently required and I determine, pursuant to section 20ZA of the Landlord and Tenant Act 1985, that it is reasonable to dispense with the statutory consultation requirements in respect of this work.

13. This decision does not concern the issue of whether any service charge costs will be reasonable or payable.

Judge N Hawkes

Date 10th March 2016

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.