



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

**Case reference** : LON/00AP/LDC/2019/0144

**Property** : 14-32 Twyford Court, Fortis Green,  
London N10 3ES

**Applicant** : Rookfield Garden Village Ltd

**Representative** : Dexters

**Respondents** : Leaseholders (list attached to application)

**Type of application** : To dispense with the requirement to consult  
lessees about major works

**Tribunal** : Judge Nicol  
Mr TW Sennett MA FCIEH

**Date of decision** : 8<sup>th</sup> October 2019

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**DECISION**

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The Tribunal has determined that the Applicant shall be granted dispensation from the statutory consultation requirements for works to repair a roof leak.

**Reasons**

1. The Applicant is the freeholder of the subject property, one of 6 purpose-built blocks of flats. Dexters are their managing agents. The Respondents are the lessees of the flats.
2. In September 2018 Dexters notified the building insurers that, following recent heavy rain, water had penetrated into one of the flats. In subsequent correspondence, Dexters provided two quotes for remedial works and a roof condition survey from 2014. Nevertheless, in due course the insurers rejected the claim on the basis that the weather conditions had not been sufficiently

severe to have caused the relevant damage to a well-maintained roof. Dexters continue to correspond with the insurers.

3. The works were completed in May 2019. The contractor, John Bottomley, provided an invoice dated 24<sup>th</sup> May 2019 in the total sum of £8,142.
4. On 19<sup>th</sup> August 2019 Dexters sent the lessees a letter purporting to be the first stage required under the statutory consultation provisions of section 20 of the Landlord and Tenant Act 1985 and the Service Charges (Consultation Requirements) (England) Regulations 2003, with a summary of the works and inviting any representations. However, given that the works had already been done, the Applicant decided to seek dispensation under section 20ZA of the Act from compliance with the statutory consultation process.
5. On 22<sup>nd</sup> August 2019, the Tribunal received the Applicant's application for dispensation. The Tribunal then made directions on 28<sup>th</sup> August 2019. The directions required the Applicant to provide all lessees with their application and the directions and they confirmed they had done so by email dated 11<sup>th</sup> September 2019.
6. The directions further required any lessee who opposed the application to complete a reply form and send a statement of their case. No lessee responded.
7. The Tribunal was provided with the lease for one of the flats which, it is assumed, is standard. Under the lease, the Applicant is obliged to maintain the property and the lessees are obliged to pay a proportionate share of the costs incurred.
8. In accordance with the Supreme Court's decision in *Daejan Investments Ltd v Benson* [2013] 1 WLR 854, the primary issue when considering dispensation is whether any lessee would suffer any financial prejudice as a result of the lack of compliance with the full consultation process.
9. There was clearly a significant issue which needed to be addressed. It is telling that none of the lessees have sought to respond to the Tribunal application. As pointed out in paragraph (2) of the directions order, whether the resulting service charges are reasonable or payable is a separate issue from that being considered in this decision.
10. The leak was identified over a year ago. On that timescale, it is somewhat surprising, even with the distraction of the insurance claim, that Dexters have not been able to comply with the statutory requirements by now. If any lessee had challenged the application, this apparent delay would have to have been considered. However, given the lack of objection or any proven prejudice, the Tribunal is satisfied that it is reasonable to dispense with the statutory consultation requirements.

**Name:** NK Nicol

**Date:** 8<sup>th</sup> October 2019