



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

Case Reference : CHI/24UH/LDC/2020/0069

Property : Rapley Court, Stamford Avenue, Hayling Island  
PO11 0BN

Applicants : Property Proprietors Limited

Representative: Beals – Letting Agents

Respondent: The Leaseholders

Representative: ---

Type of Application: Dispensation application - Section 20ZA Landlord  
and Tenant Act 1985 (“the 1985 Act”)

Tribunal Member: Judge P J Barber

Date of Decision: 23 November 2020

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**DECISION**

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**Decision**

- (1) The Tribunal determines in accordance with the provisions of Section 20ZA of the 1985 Act, to dispense with all the consultation requirements in relation to qualifying works at the Property, namely the repairs to the external metal staircases.

## Reasons

### INTRODUCTION

1. The application received by the Tribunal was dated 30 September 2020 and was for determination to dispense with consultation requirements under Section 20 of the 1985 Act, in relation to work to metal external staircases.
2. Directions were issued providing for the matter to be determined by way of a paper determination, rather than by an oral hearing, unless a party objected; no such objections have been made and accordingly, the matter is being determined on the papers.
3. The Applicants have provided an electronic bundle of documents to the Tribunal which variously included copies of the application, the directions, statement of case and other documents.
4. Due to Covid 19 restrictions, no inspection was carried out in respect of the Property.

### THE LAW

5. Section 20ZA(1) of the 1985 Act provides that :-

*“(1) 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.*

### WRITTEN REPRESENTATIONS

6. The directions issued in this matter required the Applicant to send a copy of the application and the directions to each of the leaseholders by 8 October 2020. The directions included a form for all and any leaseholders to complete and return to the Tribunal by 15 October 2020, if they opposed the application. The electronic bundle includes a statement at Page 55 to the effect that the Applicant has received no written responses from any of the leaseholders, although they had received several telephone calls from leaseholders, mainly requiring clarification on any action required by them.
7. The Applicant describes the Property as comprising 21 purpose-built flats, arranged in two separate three storey blocks, adding that welding repairs were undertaken last year to the staircase. The Applicant states that redecoration was scheduled to the staircases of both blocks earlier this year, and that Section 20 consultation was undertaken. However, on commencement of the redecoration, the Applicant says it was discovered that corrosion to the staircases was more serious than had previously been apparent. Metal fabricators were employed to carry out repairs in accordance with a specification prepared by structural engineers. The Applicant says the cost of such works at £3,267.00 & VAT would have been less than the consultation threshold, being £250.00 per flat. However, although such work was completed, the Applicant says that additional metal work was discovered as being necessary at a further cost, and that since it is effectively part of the same work, the

consultation threshold had been passed. The Applicant further states that the local authority had issued a notice under the Housing Act 2004, regarding a temporary scaffolding staircase; the Applicant states that the costs of compliance with that notice would have exceeded the cost of repairs to the metal staircase, necessitating urgent completion of such repairs, and removal of the temporary scaffolding staircase. The Applicant says decoration of the repaired staircase was then needed to prevent surface corrosion occurring during the approaching winter period.

### **CONSIDERATION**

8. The Tribunal, have taken into account all the case papers in the bundle.
9. The issue for determination under Section 20ZA of the 1985 Act, is simply as to whether or not it is satisfied that it is reasonable to dispense with the consultation requirements of Section 20 of the 1985 Act.
10. The Applicant describes how corrosion had been discovered in relation to external metal staircases, and that as a result of further review, additional corrosion, beyond that originally apparent, had occurred. The Applicant was required to serve all the leaseholders with copies of the applications and the directions. Whilst the directions allowed for any leaseholder who was opposed to the application, to make representations, none has been received. The Applicant advises in its statement of case that all the work has now been completed, and that the Improvement Notice served by Havant Borough Council has been revoked, given that the notice had been complied with. The Tribunal notes the absence of objections to the application by any of the leaseholders, and takes into account the statement by the Applicant that the work was required for urgent safety reasons. The Tribunal further takes into account the Engineer`s report letter at Page 18 of the bundle which refers to parts of the staircases being in a dangerous to use condition and advising as to various required repairs.
11. The Tribunal is satisfied that it would be reasonable to dispense with consultation requirements, given the absence of objections and apparent need for the work from a safety perspective. The Tribunal accordingly determines that all the consultation requirements arising under Section 20 of the 1985 Act in relation to the works to the metal staircase at the Property, are dispensed with.
12. In making this determination, the Tribunal makes it clear to the parties that it is concerned only with whether or not it is reasonable to dispense with statutory consultation requirements, and that such determination does not concern the separate issue as to whether any service charges arising will be reasonable or payable and which the leaseholders will remain entitled to challenge if they may be so minded, at the relevant time.

### **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.