



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

**Case Reference** : **CAM/00KF/LDC/2022/0023**

**HMCTS code  
(paper, video, audio)** : **P:PAPERREMOTE**

**Property** : **Skyline Plaza, 45 Victoria Avenue,  
Southend on Sea, Essex SS2 6BB**

**Applicant** : **Skyline Plaza RTM Company  
Limited**

**Representative** : **Darren Whitehead, Sorrell Property  
UK**

**Respondents** : **All leaseholders of dwellings at the  
Property**

**Type of application** : **For dispensation from consultation  
requirements - Section 20ZA of the  
Landlord and Tenant Act 1985**

**Tribunal members** : **Judge David Wyatt**

**Date of decision** : **1 August 2022**

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**DECISION**

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**Covid-19 pandemic: description of hearing**

This has been a remote determination on the papers which the parties are taken to have consented to, as explained below. The form of determination was P:PAPERREMOTE. A hearing was not held because it was not necessary; all issues could be determined on paper. The documents I was referred to are described below. I have noted the contents and my decision is below.

## **The tribunal's decision**

The tribunal determines under section 20ZA of the Landlord and Tenant Act 1985 to dispense with all the consultation requirements in relation to the works to strengthen the penthouse structure.

## **Reasons for the tribunal's decision**

### **The application**

1. The Applicant applied for dispensation with the statutory consultation requirements in respect of works to strengthen the penthouse structure.
2. The relevant contributions of the Respondents through the service charge towards the costs of these works would be limited to a fixed sum unless the statutory consultation requirements, prescribed by section 20 of the Landlord and Tenant Act 1985 (the “**1985 Act**”) and the Service Charges (Consultation etc) (England) Regulations 2003:
  - (i) were complied with; or
  - (ii) are dispensed with by the tribunal.
3. In this application, the Applicant seeks a determination from the tribunal, under section 20ZA of the 1985 Act, to dispense with the consultation requirements. The tribunal has jurisdiction to grant such dispensation if satisfied that it is reasonable to do so.
4. In this application, the only issue for the tribunal is whether it is satisfied that it is reasonable to dispense with the consultation requirements. **This application does not concern the issue of whether any service charge costs of the relevant works will be reasonable or payable, or what proportion is payable.**

### **The property, the parties and the leases**

5. The Applicant said the Property had been a commercial building. It said floors two to 10 had been converted to residential use, accommodating 52 units.
6. The Applicant said the landlord was R Maskell Ltd. It appears the Applicant has the no-fault right to manage under the Commonhold and Leasehold Reform Act 2002. The Applicant did not provide a sample lease, so the tribunal has no information about the terms of the relevant leases.

## **Procedural history**

7. On 6 June 2022, the tribunal gave case management directions, requiring the Applicant to (amongst other things) by 14 June 2022 serve on the Respondents copies of the application form with enclosures and the directions.
8. The directions included a reply form for any Respondent leaseholder who objected to the application to return to the tribunal and the Applicant, indicating whether they wished to have an oral hearing. Any such objecting leaseholder was required to respond by 28 June 2022. The directions required the Applicant to produce a bundle of specified documents and provided that this matter would be determined on or after 11 July 2022 based on the documents, without a hearing, unless by 5 July 2022 any party requested an oral hearing.
9. The Applicant failed to produce the bundle. When contacted by the tribunal office, they produced various documents as attachments to two e-mails on 12 July 2022. Following further enquiries, the Applicant's representative confirmed in a further e-mail on 12 July 2022 that their letter to the Respondents was sent on 6 June 2022 with all the relevant documents.
10. No leaseholder has responded to the application and no party has requested an oral hearing. In the circumstances, under rule 31(3) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the parties are taken to have consented to this matter being determined without a hearing. This determination is based on the documents produced by the Applicant. On reviewing these documents, I considered that an inspection of the Property was neither necessary nor proportionate to the issues to be determined and that a hearing was not necessary.

## **The Applicant's case**

11. In the application form, the Applicant said cladding works had been arranged "*as funded via the Government*". It appears these revealed that poor materials had been used in the structure of the penthouse, so the frame would be unable to support the weight of the new cladding. Accordingly, strengthening works had been arranged. The Applicant said (in essence) that it was reasonable not to consult in relation to the strengthening works so that: (a) the scaffolding already in place for the cladding works could be used for the strengthening works; and (b) the cladding works could be completed as soon as possible.
12. In their letter(s) to the Respondents, the Applicant's representatives appear to have indicated that the estimated costs of the strengthening works are £31,000/£32,000. The documents provided by the

Applicant include various quotations and an analysis document which appear to relate to the cladding works. They also include a quotation dated 10 May 2022 from Holmes Roofing Southern Ltd headed “*dismantle and rebuild penthouse external timber walls*” which appears to be for the strengthening works and (at £26,350 plus VAT) appears consistent with the Applicant’s cost estimate figures. I note this only for the purpose of identifying the relevant works; this is purely an application for dispensation with the statutory consultation requirements. I am not making findings about whether any service charge in relation to these costs is reasonable or payable.

### **The Respondents’ position**

13. As noted above, the directions provided for any Respondent who wished to oppose the application for dispensation to complete the reply form attached to the directions and send it to the tribunal and the Applicant. I understand the tribunal has not received any response or statement of case opposing the application, or comments on the documents provided by the Applicant. In the circumstances, the tribunal concluded that the application was unopposed.

### **The tribunal’s decision**

14. This application was not opposed by the Respondents, who have not challenged the information provided by the Applicant, identified any prejudice they might suffer because of the non-compliance with the consultation requirements, or in these proceedings asked for or provided any other information. In the circumstances, based on the information provided by the Applicant (as summarised above), I am satisfied that it is reasonable to dispense with the statutory consultation requirements in relation to the relevant works.
15. **As noted above, this decision does not determine whether the cost of these works was reasonable or payable under the leases, only whether the consultation requirements should be dispensed with in respect of them.**
16. The tribunal determines under section 20ZA of the 1985 Act to dispense with all the consultation requirements in relation to the works to strengthen the penthouse structure.
17. There was no application to the tribunal for an order under section 20C of the 1985 Act.
18. The Applicant shall be responsible for serving a copy of this decision on all relevant leaseholders.

**Name:** Judge David Wyatt

**Date:** 1 August 2022

### **Rights of appeal**

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the tribunal is required to notify the parties about any right of appeal they may have.

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.

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.

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.

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.

If the tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).