



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

Case reference : **LON/00BK/LDC/2021/0223**
P:Paperremote

Property : **Carlton Mansions 199-217 Randolph
Avenue London W9 1NP**

Applicant : **Carlton Mansions Limited**

Respondent leaseholders : **The leaseholders named on the
schedule attached to the applicatiion**

Type of application : **To dispense with the consultation
requirements under S.20 Landlord
and Tenant Act 1985**

Tribunal member(s) : **Mrs E Flint FRICS**

**Date and venue of
determination** : **6 January 2022**
Remote on the papers

DECISION

This has been a remote hearing on the papers which has been consented to by the Applicant and not objected to by the Respondent. A face to face hearing was not held because it was not practicable, no-one requested the same, and all the issues could be determined on the papers. The documents that I was referred to were in an electronic bundle of 179 pages, the contents of which I have recorded.

Decision of the tribunal

- (1) The Tribunal grants dispensation from all of the consultation requirements under S.20 of the Landlord and Tenant Act 1985 in relation to works to the façade, parapet walls, roof and gutters as referred to in the Notice of Intention dated 4 June 2021.
- (2) The question of reasonableness of the works or cost was not included in this application, the sole purpose of which is to seek dispensation.

The Background

1. The application under section 20ZA of the Landlord and Tenant Act 1985 (“the Act”) was made by the applicants on 20 August 2021.
2. The application concerned works to the front façade, roof and chimney stack repairs and other external works.
3. Directions were issued on 25 October 2021 requiring the applicant to prepare bundles by 29 November 2021 to include statements
 - (i) Setting out the full grounds for the application, including all of the documents on which the landlord relies and copies of any replies from the tenants;
 - (ii) The Leaseholders were asked to confirm by 22 November 2021 whether or not they would give their consent to the application.
 - (iii) In the event that such agreement was not forthcoming the leaseholders were to state why they opposed the application; and provide copies of all documents to be relied upon.
4. The only response received was from the lessee of flat 22 who asked the basis of the surveyor’s fees as they were not included in the contract sum.
5. The Leaseholders were informed in the Directions issued by the Tribunal that the question of reasonableness of the works or cost was not included in this application, the sole purpose of which is to seek dispensation.

The Evidence

6. Carlton Mansions comprises nine town houses which have been converted into ninety three apartments, in two blocks (199-203 and 205-217) with communal gardens to the rear.
7. The applicant stated that the works to the front façade were urgent because masonry had fallen down onto the entrance path which was a health and safety hazard for residents and visitors to the building. Scaffolding had been erected over the entrance as a temporary measure.
8. The defective roof and chimney stacks to the rear had resulted in water ingress to a number of apartments. Works were required to be undertaken urgently to prevent further damage which would result in increased repair costs and may affect the level of future insurance premiums. The applicant accepted that the works comprised one set of works in accordance with the decision of the Court of Appeal in *Phillips v Francis* [2015] 1WLR 741.
9. Notice of Intention was served on 4 June 2021 in respect of the following works:
 - Erect access scaffolding and carry out lead flashing repairs/renew back gutters
 - Renew cracked or missing slates
 - Repoint ridge where defective
 - Renew felt capping to parapet wall to rear flat roofs
 - Repoint parapet walls and rear chimney stacks
 - Repair defective timber roof access doors.
10. The applicant stated that once tenders had been received the lowest price would be accepted and the contractor instructed to proceed with the work.
11. Priced tenders were sought from four firms, only two of which provided completed priced tenders despite the period for replying being extended. The cheapest was in the sum of £166,750 (one hundred and sixty six thousand seven hundred and fifty pounds) plus VAT. On 28

September 2021 the Directors authorised the managing agents to instruct the contractor in relation to the urgent works.

12. The lessee of Flat 22 queried whether the contract cost included surveyor's fees and was advised that they were not included in the contract sum. No other lessee responded to the application for dispensation.

The Decision

13. The relevant test to be applied in an application for dispensation was set out by the Supreme Court in Daejan Investments Ltd v Benson & Ors [2013] UKSC 14 where it was held that the purpose of the section 20 consultation procedure was to protect tenants from paying for inappropriate works or paying an inappropriate amount. Dispensation should not result in prejudice to the tenant.
14. The Tribunal determines from the evidence before it that the works were necessary, were required to be completed urgently and that no prejudice to the lessees has been demonstrated or asserted.
15. On the evidence before it, and in these circumstances, the Tribunal considers that the application for dispensation be granted.

Name: Evelyn Flint

Date: 6 January 2022

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.