



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

Case reference : **LON/00BG/LDC/2022/0172P**

Property : **Block 10 Millennium Drive, London
E14 3GE**

Applicant : **Proxima GR Properties Limited**

Representative : **Haus Block Management**

Respondents : **The leaseholders of the Property**

Type of application : **Dispensation from compliance with
statutory consultation
requirements**

Tribunal member : **Judge P Korn**

Date of decision : **10 January 2023**

DECISION

Description of hearing

This has been a remote hearing on the papers. The form of remote hearing was **P**. An oral hearing was not held because the Applicant confirmed that it would be content with a paper determination, the Respondents did not object and the tribunal agrees that it is appropriate to determine the issues on the papers alone. The documents to which I have been referred are in separate electronic bundles, the contents of which I have noted. The decision made is described immediately below under the heading “Decision of the tribunal”.

Decision of the tribunal

The tribunal dispenses unconditionally with the consultation requirements in respect of the qualifying works which are the subject of this application.

The application

1. The Applicant seeks dispensation under section 20ZA of the Landlord and Tenant Act 1985 (“**the 1985 Act**”) from the consultation requirements imposed on the landlord by section 20 of the 1985 Act in relation to certain qualifying works.
2. The qualifying works which are the subject of this application consist of remedial works to repair a leak from the external roof.
3. The Property is a purpose-built block containing 8 residential flats.

Applicant’s case

4. The works involved supplying towers to enable access to the roof, raking out defective pointing and cement fillets and replacing them, removing spalled and damaged bricks and replacing them, and clearing away all debris.
5. The Applicant’s managing agents state that the works needed to be carried out urgently due to water penetration into the flats below, as the Applicant was concerned that any delay might lead to further damage to those flats. The managing agents obtained two quotations, copies of which have been supplied, and they instructed the more competitive of the two tenderers.
6. The managing agents state that they informed the “freeholder” about the works and advised it of the application for dispensation. My working assumption is that what they meant to say was that they informed the **leaseholders**, not the freeholder.
7. The Applicant seeks dispensation from compliance with the statutory consultation requirements in respect of these works on the ground that the works were urgently required to prevent further damage and further water ingress.

Responses from the Respondents

8. None of the Respondents has written to the tribunal raising any objections to the dispensation application.

The relevant legal provisions

9. Under Section 20(1) of the 1985 Act, in relation to any qualifying works *“the relevant contributions of tenants are limited ... unless the consultation requirements have been either (a) complied with ... or (b) dispensed with ... by ... the appropriate tribunal”*.
10. Under Section 20ZA(1) of the 1985 Act *“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..., the tribunal may make the determination if satisfied that it is reasonable to dispense with the requirements”*.

Tribunal’s analysis

11. Paragraph 4 of the tribunal’s directions required the Applicant to prepare a bundle of all relevant documents for use in the tribunal’s determination, including a statement from the Applicant to explain the reasons for the application (i.e. in addition to the brief information contained in the application form), any documents on which the Applicant relies, and copies of relevant correspondence. However, no such bundle has been provided.
12. From the information contained in the application form I note that in the Applicant’s submission the works were too urgent to justify waiting for completion of the statutory consultation process due to the need to prevent further damage and further water ingress. I also note that the Applicant obtained two quotations before proceeding.
13. As is clear from the decision of the Supreme Court in *Daejan Investments Limited v Benson and others (2013) UKSC 14*, the key issue when considering an application for dispensation is whether the leaseholders have suffered any prejudice as a result of the failure to comply with the consultation requirements.
14. In this case, none of the Respondents has expressed any objections in relation to the failure to go through the full statutory consultation process, and there is no evidence before me that the leaseholders were in practice prejudiced by the failure to consult fully. Furthermore, I accept on the basis of the uncontested evidence before me that the works were of an urgent nature and that it was in the leaseholders’ interests for the works to be completed with the minimum of delay.
15. The tribunal has a wide discretion as to whether it is reasonable to dispense with the consultation requirements. Whilst the Applicant has not fully complied with directions and has not offered a detailed statement of case, on the facts of this case in the light of the points noted above – in particular the fact that no leaseholders have raised

any objections or challenged the Applicant's factual evidence – I consider that it is reasonable to dispense with the consultation requirements.

16. As is also clear from the decision of the Supreme Court in *Daejan v Benson*, even when minded to grant dispensation it is open to a tribunal to do so subject to conditions, for example where it would be appropriate to impose a condition in order to compensate for any specific prejudice suffered by leaseholders. However, as noted above, there is no evidence nor any suggestion that the leaseholders have suffered prejudice in this case.
17. Accordingly, I grant unconditional dispensation from compliance with the consultation requirements.
18. It should be noted that this determination is confined to the issue of consultation and does not constitute a decision on the reasonableness of the cost of the works.

Costs

19. There have been no cost applications.

Name: Judge P Korn

Date: 10 January 2023

RIGHTS OF APPEAL

- A. If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber) a written application for permission must be made to the First-tier Tribunal at the regional office dealing with the case.
- B. 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.
- C. If the application is not made within the 28 day time limit, such application must include a request for extension of time and the reason for not complying with the 28 day time limit; the Tribunal will then look at such reason and decide whether to allow the application for permission to appeal to proceed despite not being within the time limit.
- D. 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.