



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

Case Reference	:	CAM/00MD/LDC/2021/0024
HMCTS code (paper, video, audio)	:	P:PAPERREMOTE
Property	:	Windsor House, 33 Upton Park, Slough, Berkshire SL1 2DA
Applicant	:	Mintoncrest Ltd
Representative	:	Hazel Jordan, Remus Management Ltd
Respondents	:	All leaseholders of dwellings at the Property (including any of their sub- tenants of any such dwelling who are liable to contribute to the cost of the relevant works)
Type of application	:	For dispensation from consultation requirements - Section 20ZA of the Landlord and Tenant Act 1985
Tribunal members	:	Mary Hardman FRICS IRRV(Hons)
Date of decision	:	18 August 2021

DECISION

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, and all issues could be determined on paper. The documents that I was referred to are in a 94 page bundle from the Applicants. 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 respect of qualifying works to replace missing slates, address foul drainage problems and provide replacement sewage pumps, and repair the roof above flat 3.

Reasons for the tribunal's decision

The application

1. This is an application to retrospectively dispense with the statutory consultation requirements in respect of works to the property which consisted of :
 - replace missing slates to box gutter;
 - address foul drainage problems and provide replacement sewage pumps; and
 - stop water ingress through the roof into the top floor flat.
2. The relevant contributions of leaseholders through the service charge towards the costs of these works would be limited to a fixed sum for each incident 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 retrospectively 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.**
5. **This application does not concern the issue of whether any service charge costs of the relevant works will be reasonable or payable or by whom they are payable.**

The Property and parties

6. The Property is a purpose-built block of 8 flats including a basement flat.
7. The application is made by Remus Management Limited on behalf of the landlord, Mintoncrest Limited. The application was made against the leaseholders of the flats (the “**Respondents**”)

Procedural history

8. The Applicant said that the works were all urgent, as explained below.
9. Case management directions were given on 17 June 2021, requiring the Applicant by 7 July 2021 to serve on the Respondents copies of the application form, any other evidence relied upon in relation to the matters in the application form and these directions. They were to file with the tribunal a certificate to confirm that this has been done and stating the date(s) on which this was done.
10. On 2 August 2021 the Applicant emailed the tribunal to confirm that this had been done on 30 June 2021 by first class post.
11. The directions included a reply form for any leaseholder who objected to the application to return to the tribunal and the Applicant, also indicating whether they wished to have an oral hearing. Any such objecting leaseholder was required to respond by 23 July 2021.
12. The directions further provided that this matter would be determined on or after 18 August 2021 based on the documents, without a hearing, unless any party requested an oral hearing
13. No leaseholder has responded to the tribunal, and no party has requested an oral hearing.
14. On reviewing these documents, the tribunal 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

15. The clear and helpful documentation provided by the Applicant states that there were a number of issues that required an immediate response. These were:
16. In January 2020 there was water leakage into the top floor rear flat of Windsor House. B & R Roofing, a local contractor advised that that this needed investigating and scaffold was required. The cost was £1800

which was below the Section 20 threshold for the building (8 flats @ £250 = £2000) . Whilst investigating the contractor was able to fix the leak by replacing the missing slates and the total bill was £2,064 and given the risk of damage from the water ingress this was authorised.

17. In July 2020 the pump station dealing with sewage to the block failed and raw sewage was reported to be pouring into the basement flat. This was an urgent health and safety issue and a drainage company, Unbloc, was called to clear the sewage out of the pumping station. Whilst they managed to get one pump working, they advised that further works were needed. The cost of this work was £2280 including VAT.
18. Subsequently the pumping station needed emptying by tanker on three occasions over 6 days in July at a cost of around £800 a time. Given the ongoing cost of this would be prohibitive, it was agreed that work should go ahead to replace the two pumps at a cost of £5802 including VAT.
19. Finally, in October 2020 there was water leakage into flat 3. On inspection it was decided that immediate work was required to prevent the situation worsening and further damage being caused to the flat. The cost of this work, which involved removing and replacing slates and battens to the dormer and front bay roof and installing new guttering, soakers and flashing was £5849.04 plus VAT.

The Respondents' position

20. As mentioned 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.
21. The tribunal has not received any response or statement of case opposing the application, or comments on the Applicant's statements in the application form. In the circumstances, the tribunal concluded that the application was unopposed.

The tribunal's decision

22. Following the Supreme Court decision of *Daejan Investments Ltd. v Benson* [2013] UKSC 14, the only issue for the Tribunal is whether the Respondents have suffered prejudice in dispensing with the requirements.
23. This application for dispensation from the consultation requirements was not opposed by the Respondents, who have not challenged the information provided by the Applicant in the application form, identified any prejudice which they might suffer because of the non-

compliance with the consultation requirements, nor asked to be provided with any other information.

24. Accordingly, in the circumstances set out in this decision, the tribunal is satisfied that it is reasonable to dispense with the consultation requirements in relation to these works.
25. Therefore, for the purposes of this application, the tribunal determines under section 20ZA of the 1985 Act to dispense with all the consultation requirements in relation to the works as detailed in paragraphs 16-19 above.
26. **This is not an application for the tribunal to approve the reasonableness of the works or the reasonableness, apportionment or payability of the service charge demand. I make no finding in that regard and the leaseholders will continue to enjoy the protection of section 27A of the Act.**
27. There was no application to the tribunal for an order under section 20C of the 1985 Act.
28. The Applicant shall be responsible for serving a copy of this decision on all leaseholders.

**Mary Hardman FRICS IRRV(Hons)
18 August 2021**

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).