

## **Background**

1. The applicant has applied to the Tribunal under S20ZA of the Landlord and Tenant Act 1985 (“the 1985 Act”) for dispensation from the consultation requirements contained in section 20 of the 1985 Act in respect of certain qualifying works to 52 High Street, Hampton Hill, TW12 1PD (“the Property”).
2. The Tribunal has been informed that the Property comprises two residential flats above two shop units.
3. The application is dated 11<sup>th</sup> February 2016 and the respondent lessees are listed in a schedule to the application.
4. Directions of the Tribunal were issued on 17<sup>th</sup> February 2016. The applicant has requested a paper determination. No application has been made by any of the respondents for an oral hearing. This matter has therefore been determined by the Tribunal by way of a paper determination on Thursday 10<sup>th</sup> March 2016.
5. The Tribunal does not consider that an inspection of the Property would be of assistance nor would it be proportionate to the issues in dispute.

## **The applicant’s case**

6. The applicant applies for dispensation from the requirements to consult leaseholders under section 20 of the 1985 Act in respect of work to the gutters at the Property.
7. It is stated in the application that:

*“Following the recent heavy rain the gutters at the front of the building have failed and need replacing. At the current time, during heavy rain, water is pouring over the front of the entrance to the delicatessen below.*

*A letter has been sent to the two leaseholders of the flats advising them of the requirement to complete the works and sending copies of the estimates received. One of the leaseholders responded and asked to allow his own contractor to quote but subsequently advised that his contractor was too busy and agreed to proceed with the quotation for Perlus.*

*The works need to be carried out urgently to prevent damage to the shop below as well as passing pedestrians.”*

### **The respondents' case**

8. None of the respondents have filed written representations opposing the application.

### **The Tribunal's determination**

9. Section 20 of the 1985 Act provides for the limitation of service charges in the event that statutory consultation requirements are not met. The consultation requirements apply where the works are qualifying works (as is the case in this instance) and only £250 can be recovered from a tenant in respect of such works unless the consultation requirements have either been complied with or dispensed with.
10. The consultation requirements are set out in the Service Charges (Consultation Requirements) (England) Regulations 2003.
11. Section 20ZA of the 1985 Act provides that, where an application is made to the 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.
12. Having considered the application; the evidence in support; and the lack of any opposition on the part of the respondents; I accept that the qualifying works described in the applicant's application of 11<sup>th</sup> February 2016 are urgently required and I determine, pursuant to section 20ZA of the Landlord and Tenant Act 1985, that it is reasonable to dispense with the statutory consultation requirements in respect of this work.
13. **This decision does not concern the issue of whether any service charge costs will be reasonable or payable.**

Judge N Hawkes

Date 10<sup>th</sup> March 2016

### **ANNEX - 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.