



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

Case Reference: LON/00BG/LDC/2021/0019 P

HMCTS code: P: PAPERREMOTE

Property: 52A and 52B Portree Street London E14
OHT

Applicant: Resonance Ltd

Representative : Warwick Estates (Jessica Clough)

Respondent: The leaseholders listed in a schedule to
the application

**Type of
Application:** To dispense with the statutory
consultation requirements under
section 20ZA Landlord and Tenant Act
1985

Tribunal: Judge Pittaway

Date of decision: 21 April 2021

DECISION

Covid-19 pandemic: description of hearing

This has been a remote hearing on the papers which has been consented to by the applicant and not objected to by any respondent. The form of remote hearing was P:PAPERREMOTE. A face-to-face hearing was not held because no-one requested a hearing and all issues could be determined on paper.

The documents to which the tribunal was referred are a bundle of 75 pages which included the application, the Directions dated 8th March, an estimate from Allen and Brown and a quotation from DP Buzzing, a copy lease, and correspondence from the freeholder and the residents.

The tribunal's decision is set out below. References to sections are to sections in the Landlord and Tenant Act 1985 unless otherwise stated.

DECISION

The Tribunal grants the application for dispensation from statutory consultation in respect of the subject works, namely remedial works to the roof of the property.

This decision does not affect the Tribunal's jurisdiction upon any future application to make a determination under section 27A of the Act in respect of liability to pay, for a reason other than non-consultation in respect of the subject works, or as to the reasonableness and/or the cost of the works.

The Application

1. The applicant seeks a determination pursuant to section 20ZA of the Landlord and Tenant Act 1985 (the '**Act**') for dispensation from consultation in respect of works to the Property. These are described in the application as works to the roof of the property to prevent further leak damage and by reference to the quotations attached to the application (the '**works**').
2. The Service Charges (Consultation Requirements) Regulations 2003 provide that consultation requirements are triggered if the landlord plans to carry out qualifying works which would result in the contribution of any tenant being more than £250. The application did not state what each leaseholder's contribution to the cost of the works would be, but stated that the works are qualifying works and that the cost exceeded the section 20 threshold.

3. By directions dated 8 March 2021 (the '**directions**') the tribunal directed that if any leaseholder/sublessee objected to the application he/she should do so, to the applicant and the tribunal, by 23 March 2021. The tribunal received no objections, and none have been included in the bundle provided to the tribunal by the applicant.
4. The directions provided that the tribunal would decide the matter on the basis of written submissions unless any party requested a hearing. No such request has been made.

The applicant's case

5. The applicant is the landlord of the Property. The Property is described in the application as a small converted house of two units.
6. The specimen lease, which is of ground floor flat 52A, provides at paragraph 5 of Part II of the Fifth Schedule, for the landlord to maintain and keep the main structure of the Building (described as 52 Portree Street) in good repair. The lease also provides, at paragraph 31 of the Fourth Schedule for the Tenant to pay Service Charge.
7. The need for the works was brought to the applicant's attention by the tenants. The applicant says that it seeks dispensation from the full consultation process because the cost exceeds £250 per flat.
8. A Notice of Intention in relation to the works was served on the leaseholders dated 26 November 2020. The application states that the leaseholders have been notified of the works required and the costs involved, although evidence of this is not in the bundle before the tribunal..
9. The applicant has provided two estimates. The estimate from Allen and Brown dated 27 November 2020 describes the works as the removal of tiles, felt and battens, supplying and installing eaves trays into gutters, laying felt and battens, retiling, removal of guttering and fascia board, replacing fascia board and refitting guttering, and estimates the cost to be £996 incl VAT. The quotation from D P Buzzing & Co Ltd is dated 25 November 2020 and quotes for clearing the box gutters, patch repair to a split identified by them, strip section around skylight and form new lead flashing kit, relay tiles around skylight to ensure water tightness, and strip bottom part of roof, replacing items and relay existing tiles and quotes £3,955 incl. VAT.

Responses from the respondents

10. The applicant's bundle did not contain any response from the respondents and the tribunal did not receive any objection from any leaseholder.

Determination and Reasons

11. Section 20ZA(1) of the Act provides:

“Where an application is made to a leasehold valuation tribunal for a determination to dispense with all or any of the consultation requirements in relation to any qualifying works or qualifying long term agreement, the tribunal may make the determination if satisfied that it is reasonable to dispense with the requirements.”

12. The tribunal has made its determination on the basis of the application and documents in the bundle, in particular

- that the tenants requested that the roof be repaired,
- that Notice of Intention to carry out the works was served on the respondents,
- that no objection has been received from any respondent, and
- the stated need for the works,

13. The tribunal has also had regard to the decision in *Daejan Investments Ltd v Benson and others* [2013] UKSC 14 (*‘Daejan’*),

14. The tribunal determines that the respondents are not prejudiced by the works and it is reasonable to dispense with the consultation requirements.

15. While the applicant has not stated that the reason for the application to dispense with consultation is to accelerate prevention of further damage to the flats the tribunal considers that this is a relevant consideration for it to take into account, having regard to the e mail exchanges between the applicant’s representative and the respondents included in the bundle.

16. Whether or not the respondents are liable for the cost of the works by reason of the terms of their leases, any statutory provision other than section 20ZA, and whether the works are carried out to a reasonable standard and at a reasonable cost are not matters which fall within the jurisdiction of the tribunal in relation to this present application. This decision does not affect the tribunal’s jurisdiction upon any future application to make a determination under section 27A of the Act in respect of liability to pay and the reasonableness and /or cost of the works.

Name:

Judge Pittaway

Date: 21 April 2021

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.