



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

**Case Reference** : **LON/00AY/LDC/2022/0118**

**Property** : **The development known as  
Westminster Square**

**Applicant** : **Westminster Square Management  
Limited**

**Respondents** : **The lessees listed in the schedule to  
the application**

**Type of Application** : **Dispensation from consultation  
requirements under Landlord and  
Tenant Act 1985 section 20ZA**

**Tribunal Members** : **Judge Professor R Percival  
Mr K Ridgeway MRICS**

**Venue** : **Remote paper determination**

**Date of Decision** : **9 January 2023**

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**DECISION**

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## **Decisions of the tribunal**

- (1) The Tribunal, pursuant to section 20ZA of the Landlord and Tenant Act 1985 (“the 1985 Act”), grants dispensation from the consultation requirements in respect of the works the subject of the application.

## **Procedural**

1. The landlord submitted an application for dispensation from the consultation requirements in section 20 of the Landlord and Tenant Act 1985 (“the 1985 Act”) and the regulations thereunder, dated 16 June 2022.
2. The Tribunal gave directions on 12 October 2022. The directions provided for a form to be distributed to those who pay the service charge to allow them to object to or agree with the applications, and, if objecting, to provide such further material as they sought to rely on. The application and directions were required to be sent to the leaseholders and any sublessees, and to be displayed as a notice in the common parts of the property. The deadline for return of the forms, to the Applicant and the Tribunal, was 3 November 2022.
3. The Applicant confirmed that the relevant documentation had been sent to the leaseholders (as noted below, the form itself had already been sent), and appropriately displayed, on 20 October 2022.
4. No response from any of the leaseholders has been received by the Tribunal.

## **The property and the works**

5. The property comprises a four block estate, containing 141 residential units, known as Westminster Square. The specific addresses concerned are 1-92 Walpole House, 126 Westminster Bridge Road, London, SE1 7 UN, 1-25 Chamberlain House, 126 Westminster Bridge Road, London, SE1 7 UR, 1-18 Palmerston House, 126 Westminster Bridge Road, London, SE1 7 UN, and 1-6 Churchill House, 126 Westminster Bridge Road, London SE1 7 UP.
6. The application relates that a section of roof of one of the blocks, Walpole House, was leaking into a residential flat. The Applicants considered that rectifying the leak was urgent, to prevent further damage to the premises, and further inconvenience to the occupant.
7. The works are described as overlaying the roof terrace of 90 Walpole House (circa 180m<sup>2</sup>) to include for all vertical dressing at the perimeter

and abutments. The Applicant states that it is necessary to carry out the works to address the source of the water ingress into the flat below. The work was due to start in June 2022, and was expected to last six weeks.

8. The Applicant states that it has served a notice of intention to carry out work on the leaseholders on 25 April 2022, and obtained two quotations. That notice (a copy of which is provided in the bundle) invites responses from the leaseholders. The Applicant also records that it served a statement of estimates on the leaseholders on 16 June 2022. That notice informed the leaseholders of the Applicant's intention to proceed with the lowest of the two quotations (£43,625 inc VAT, plus 11% in professional fees) and to make this application, and included a copy of the application form submitted to the Tribunal.
9. The application was accordingly made before work commenced, but is now, we assume, an application for retrospective dispensation.

### **Determination**

10. The Tribunal is concerned solely with an application under section 20ZA of the 1985 Act to dispense with the consultation requirements under section 20 of the same Act.
11. In the first place, we accept that the fact that a leak was occurring means that there was some urgency in undertaking the work, although the papers before us do not demonstrate an investigation into the possibility of a temporary repair to prevent the ingress of water into (it appears) a single flat. Nor were we provided with any evidence of the need for what appears to be a more general repair to the roof.
12. Be that as it may, however, no responses in the form provided have been received from any of the leaseholders who contribute to the service charge. It is therefore clear that the leaseholders have not sought to claim any prejudice as a result of the consultation requirements not having been satisfied. Where that is the case, the Tribunal must, quite apart from any question of urgency, allow the application: *Daejan Investments Ltd v Benson and others* [2013] UKSC 14; [2013] 1 WLR 854.
13. We accordingly grant dispensation.
14. This application relates solely to the granting of dispensation. If the leaseholders consider the cost of the works to be excessive or the quality of the workmanship poor, or if costs sought to be recovered through the service charge are otherwise not reasonably incurred, then it is open to them to apply to the Tribunal for a determination of those issues under section 27A of the Landlord and Tenant Act 1985.

**Name:** Judge Prof Richard Percival **Date:** 9 January 2023

## **Appendix of relevant legislation**

### **Landlord and Tenant Act 1985 (as amended)**

#### **Section 20**

- (1) Where this section applies to any qualifying works or qualifying long term agreement, the relevant contributions of tenants are limited in accordance with subsection (6) or (7) (or both) unless the consultation requirements have been either—
  - (a) complied with in relation to the works or agreement, or
  - (b) dispensed with in relation to the works or agreement by (or on appeal from) the appropriate tribunal .
- (2) In this section “relevant contribution”, in relation to a tenant and any works or agreement, is the amount which he may be required under the terms of his lease to contribute (by the payment of service charges) to relevant costs incurred on carrying out the works or under the agreement.
- (3) This section applies to qualifying works if relevant costs incurred on carrying out the works exceed an appropriate amount.
- (4) The Secretary of State may by regulations provide that this section applies to a qualifying long term agreement—
  - (a) if relevant costs incurred under the agreement exceed an appropriate amount, or
  - (b) if relevant costs incurred under the agreement during a period prescribed by the regulations exceed an appropriate amount.
- (5) An appropriate amount is an amount set by regulations made by the Secretary of State; and the regulations may make provision for either or both of the following to be an appropriate amount—
  - (a) an amount prescribed by, or determined in accordance with, the regulations, and
  - (b) an amount which results in the relevant contribution of any one or more tenants being an amount prescribed by, or determined in accordance with, the regulations.
- (6) Where an appropriate amount is set by virtue of paragraph (a) of subsection (5), the amount of the relevant costs incurred on carrying out the works or under the agreement which may be taken into account in determining the relevant contributions of tenants is limited to the appropriate amount.
- (7) Where an appropriate amount is set by virtue of paragraph (b) of that subsection, the amount of the relevant contribution of the tenant, or each of the tenants, whose relevant contribution would otherwise exceed the amount prescribed by, or determined in

accordance with, the regulations is limited to the amount so prescribed or determined.]

### **Section 20ZA**

- (1) 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.
- (2) In section 20 and this section—
  - “qualifying works” means works on a building or any other premises, and
  - “qualifying long term agreement” means (subject to subsection (3)) an agreement entered into, by or on behalf of the landlord or a superior landlord, for a term of more than twelve months.
- (3) The Secretary of State may by regulations provide that an agreement is not a qualifying long term agreement—
  - (a) if it is an agreement of a description prescribed by the regulations, or
  - (b) in any circumstances so prescribed.
- (4) In section 20 and this section “the consultation requirements” means requirements prescribed by regulations made by the Secretary of State.
- (5) Regulations under subsection (4) may in particular include provision requiring the landlord—
  - (a) to provide details of proposed works or agreements to tenants or the recognised tenants’ association representing them,
  - (b) to obtain estimates for proposed works or agreements,
  - (c) to invite tenants or the recognised tenants’ association to propose the names of persons from whom the landlord should try to obtain other estimates,
  - (d) to have regard to observations made by tenants or the recognised tenants’ association in relation to proposed works or agreements and estimates, and
  - (e) to give reasons in prescribed circumstances for carrying out works or entering into agreements.
- (6) Regulations under section 20 or this section—
  - (a) may make provision generally or only in relation to specific cases, and
  - (b) may make different provision for different purposes.
- (7) Regulations under section 20 or this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.