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

**Case reference** : **LON/OOAS/LDC/2016/0005**

**Property** : **Block 1-12 New Court, The Moorings, High Road, Cowley, Middlesex UB8 2LN**

**Applicant** : **Elmbirch Properties Plc**

**Representative** : **Elijah Adekunle MIRPM of Remus Management Limited (managing agents)**

**Respondents** : **The leaseholders listed in the application**

**Type of application** : **To dispense with the requirement to consult leaseholders**

**Tribunal Member** : **Judge N Hawkes**

**Venue** : **10 Alfred Place, London WC1E 7LR**

**Date of paper determination** : **24<sup>th</sup> February 2016**

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**DECISION**

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## **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 Block 1-12 New Court, The Moorings, High Road, Cowley, Middlesex UB8 2LN (“the Property”).
2. The Property comprises a combination of studio, 1 and 2 bedroom flats in a purpose-built block. The application is dated 6<sup>th</sup> January 2016 and the respondent lessees are listed in a schedule to the application. The application was initially erroneously addressed to Block 1-10 New Court but this error was corrected by correspondence dated 27<sup>th</sup> January 2016.
3. Directions of the Tribunal were issued on 22<sup>nd</sup> January 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 Wednesday 24<sup>th</sup> February 2016.
4. The Tribunal did not consider that an inspection of the Property would be of assistance nor would it have been proportionate to the issues in dispute.

## **The applicant’s case**

5. The applicant applies for dispensation from the requirements to consult leaseholders under section 20 of the 1985 Act in respect of work to stabilise the brickwork of the Property.
6. The applicant states that the work was urgently required for health and safety reasons and that it has already been carried out. The work included taking down and rebuilding brickwork, inserting wall ties and correcting the verge detail.
7. An undated copy of a letter which was sent to the lessees provides:

*“As you may already be aware, we have undertaken some emergency remedial works to the exterior brickwork of building 1-12 New Court. The affected section of the brickwork was leaning aggressively outwards and following a report from an independent Surveyor it was rendered structurally unsafe.*

*A further contributor to the condition of this wall was the lack of verge detail. There was in fact no overhang of the verge tile and the current verge arrangement does not shed the water from the roof and would permit the water to just run-off from the roof surface.*

*As recommended by the Surveyor, a local contractor (Ruislip Roofing Limited) was instructed to remove the leaning brickwork and rebuild, bricks cleaned and where necessary to provide some form of flashing where the hanging tiles and brickwork intersect."*

### **The respondents' case**

8. None of the respondents have filed written representations opposing the application. Paragraph 5 of the Tribunal's Directions dated 22<sup>nd</sup> January 2016 includes provision that the Tribunal will be entitled to consider that those tenants who do not respond to the directions agree with 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 6<sup>th</sup> January 2016 were 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 24<sup>th</sup> February 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.