



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

**Case Reference** : **LON/00AP/LDC/2018/0145**

**Property** : **284-288 Muswell Hill Broadway,  
London N10 2QR**

**Applicant** : **Lower Muswell Hill Limited**

**Representative** : **Moishe Frenkel BSc (Hons) MRICS  
Heywood & Partners**

**Respondents** : **Dimitra Karadimitriou (1<sup>st</sup> Floor  
Flat)  
Colm Quinn and Sinead Lauren  
Flowers (2<sup>nd</sup> Floor Flat)**

**Representative** : **-**

**Type of Application** : **To dispense with the requirement to  
consult lessees about major works –  
S20ZA Landlord and Tenant Act 1985**

**Tribunal Members** : **P M J Casey MRICS**

**Date and venue of  
Hearing** : **2 October 2018  
10 Alfred Place, London WC1E 7LR**

**Date of Decision** : **12 October 2018**

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**DECISION**

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## **Decision of the tribunal**

- (1) The tribunal determines that it is satisfied that it is reasonable to dispense with all or any of the consultation requirements of Section 20 of the Landlord and Tenant Act 1985 and the Service Charges (Consultation Requirements) (England) Regulations 2003 (the Regulations) in respect of what are described in the Application dated 28 August 2018 as urgent works to deal with rain water leaks at 284-288 Muswell Hill Broadway, London N10 2QR (the property).

## **The application**

1. The applicant seeks a determination pursuant to s.20ZA of the Landlord and Tenant Act 1985 ("the Act") that the consultation requirements of the Act may be dispensed with in respect of certain works at the property.
2. The tribunal issued Directions for the case management of the application on 4 September 2018 and allocated it to the fast track with a paper hearing set down for the week commencing 2 October 2018.
3. The application is not opposed by either of the the residential long leaseholders of the flats at the building. The works have not as yet commenced.
4. The applicant has provided the tribunal with confirmation that the application and the directions had been communicated to all lessees. It has also, as directed, provided a bundle of documents that it relies on which were read and considered by the tribunal on 2 October 2018.

## **The evidence**

5. In the photographs accompanying the application the property is shown to be a three storey terraced building erected in the early 1900s as part of a parade of similar buildings. There is a commercial unit (estate agents) on the ground floor with it is said two flats on the upper floors. Neither the applicant nor any leaseholder requested an inspection and given the photographs and other documents in the hearing bundle the tribunal did not consider one was necessary or proportionate.
6. In the application, Mr Frenkel, the freeholder's property manager, says that he was contacted by Mr Quin, the leaseholder of the top floor flat, on 6 August 2016, who reported that the roof of the property was leaking from the flat roof over the bay to the front elevation into his flat and also through the skylight above the common parts stairway. Mr Quin also obtained a quotation to do remedial works from a firm called Proof-Tech & Roofing Solutions Ltd, whose estimate dated 10 August

he also forwarded to Mr Frenkel who in his turn instructed another firm, Masters of Maintenance, to attend the site to establish the extent of the damage and give a quotation of what they would charge to do the repairs. That quotation was provided on 17 August 2018 in the sum of £2,500 plus VAT to remove the leaking and rotten skylight and replace it with a Velux window, to flash all valleys and gullies throughout, apply acrypol resin to both flat roofs over the bay windows, replace all broken and missing roof slates and replace flashing down the side of the building which is currently causing water to soak the external wall. In contrast Proof-Tech's quotation of £2,450 plus VAT only covered sealing and waterproofing with Hydronylon the flat roof over the bay which was leaking into Mr Quin's flat. Accordingly Heywood & Partners have instructed Masters of Maintenance to do the works specified in their quotation and Mr Quin who has been advised throughout is apparently in agreement with this decision. The application for dispensation has been made because the roof is leaking and it is said by Mr Frenkel needs to be urgently repaired to prevent further damage from water ingress with possibly greater costs needing then to be incurred to rectify the problem and make good especially with the onset of autumn. To carry out the full consultation progress would delay the repairs being effected until the winter.

### **The decision**

7. An application under S20ZA does not involve any consideration of whether or not proposed or completed works are service charge chargeable, the reasonableness of the cost of or of the standard of the works. These all remain issues which it is open to leaseholders to challenge when billed for the works. It is solely concerned with whether or not circumstances exist which justify the landlord doing the works without the need to allow the passage of time required to comply with the various consultation stages either in total or in part.
8. The applicant's only grounds for seeking dispensation are to deal with urgently its repairing obligation under the lease by dealing with the present rain water leaks into the building and the need to prevent further deterioration to the fabric of the building. The leaseholder most affected by those leaks is said to be in agreement with the freeholder's proposed course of action and no objection has been raised by the other leaseholder. The tribunal is satisfied in all the circumstances to allow the application and to grant dispensation from all of the consultation requirements in respect of the proposed repair works identified in the application.

**Name:** P M J Casey

**Date:** 12 October 2018

## **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).