



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

**Case Reference** : **LON/00BG/LDC/2018/0028**

**Property** : **Dennis House Market Place Roman  
Road London E3 5ER**

**Applicant** : **Mr R Sheikh**

**Representative** : **Ms Amanda Gourlay of counsel**

**Respondents** : **The long leaseholders of Dennis  
House identified in the the  
schedule attached to the  
application**

**Representative** : **None**

**Type of Application** : **For dispensation of the  
consultation requirements under  
section 20ZA Landlord and Tenant  
Act 1985 (as amended)**

**Tribunal Judge** : **Judge Pittaway  
Mr H Geddes**

**Date of Hearing** : **14 June 2018**

**Date of Decision** : **14 June 2018**

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**DECISION**

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## The tribunal's decision

1. The tribunal determines that an order shall be made under section 20ZA of the Landlord and Tenant Act 1985 (as amended) ("the **1985 Act**") dispensing with the consultation requirements with regard to qualifying works in relation to the recovering of the roof using a waterproof membrane.
2. The parties should be aware that this decision does not concern the issue of whether the service charge costs in relation to these works and costs are reasonable and payable and those costs may be the subject of a challenge under section 27A of the Landlord and Tenant Act 1985.

## The application

3. The applicant seeks an order pursuant to s.20ZA of the 1985 Act for the retrospective dispensation of any or all of the consultation requirements of section 20 of the 1985 Act. The property concerned is Dennis House Market Place Roman Road London E3 5ER, described in the application as a mixed use block of 36 private residential flats on three floors (the "**Property**") and twelve shops on the ground floor with basements.

## The background

4. The application was received by the tribunal on 2 February 2018. The application seeks retrospective dispensation in relation to a complete roof covering replacement, with the work to be started on 1 February 2018. The application states that the matter is urgent due to Flat 28 having become uninhabitable and refers to a quotation for the works in the sum of £22,500.00 plus VAT.
5. The applicant indicated that it would be content for the matter to be dealt with by way of written representations. On 9 March 2018 A J Angelo (solicitors to various leaseholders and the Dennis House Residents association) sent a statement of case to the tribunal which requested an oral hearing.
6. Directions were issued on 7 February 2018 (the "**original directions**") with further directions issued on 26 April 2018 which set out the steps to be taken by the parties.
7. The original directions provided that that any tenant who wished to oppose the application should do so by serving a statement to that effect on the tribunal and the applicant by 9 March 2018. The tribunal received the following statements opposing the application;

- (i) From Laura Robinson and Gregory Anguise (lessees of Flat 3) on 2 March; and
  - (ii) From A J Angelo on 9 March;
8. Ms Roxburgh wrote to the tribunal on 25 March enclosing a bundle of documents, apparently in compliance with the original directions, which suggested that she did not consent to the application.
9. However by the date of the hearing A J Angelo, Ms Robinson and Ms Roxburgh had all withdrawn their opposition to the application. No one from the respondents attended the hearing.
10. The tribunal had received various bundles of documents from those originally opposing the application.

### **The applicant's case**

11. On the day of the hearing Ms Gourlay provided the tribunal with written submissions on behalf of the applicant.

These set out a chronology of the landlord's intention to carry out roof replacement works, showing that they had first been considered in 2015, but postponed then because it was believed that the work was not immediately necessary. The works were reconsidered in November 2017, on the basis of a re-covering of the roof with a waterproof membrane, rather than it being stripped entirely, at which time consultation was within the landlord's contemplation.

Cipro Building Surveyors and Proteus Waterproofing attended the Property in early January 2018 to prepare a report on the condition of the roof.

However the work became urgent in January 2018 when the occupiers of Flat 28 were unable to leave their flat because the door could not be opened. (The flat was ultimately made the subject of a Prohibition Order). The written submissions state that on 26 January 2018 the landlord notified the tenants that the works were going to start, and submit that there was no delay in applying for dispensation, as the application was made one week after it became apparent that the works must be carried out.

It is the applicant's submission that in the circumstances there was no time for meaningful consultation to take place. The roof needed to be re-covered and the landlord had to take action immediately.

### **Reasons for the Tribunal's decision**

12. The only issue before the Tribunal is whether it should grant dispensation from all or any of the consultation requirements contained in section 20 of the 1985 Act.
13. The tribunal have had regard to the submissions made on behalf of the applicant in reaching its decision.
14. The tribunal did not consider that an inspection was necessary.
15. The tribunal has the jurisdiction to grant dispensation under section 20ZA of the 1985 Act "*if satisfied that it is reasonable to dispense with the requirements*".
16. The tribunal note that flat 28 had become uninhabitable and the likelihood of further damage to other flats in the Property.
17. In light of the above the tribunal considers that it is reasonable to dispense with the consultation requirements.

### **Application under s.20C**

18. There was no application for any order under section 20C before the tribunal.

**Name:** Judge Pittaway

**Date:** 14 June 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).