



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

Case Reference	:	CAM/00KG/LDC/2020/0022
HMCTS code (paper, video, audio)	:	P:PAPERREMOTE
Property	:	3A/B Garage Villas, High Street, Aveley, Essex RM15 4BJ
Applicant	:	Long Term Reversions (Harrogate) Limited
Applicant's representative	:	Warwick Estates
Respondents	:	The leaseholders of the Property (two flats)
Type of application	:	For dispensation from consultation requirements - Section 20ZA of the Landlord and Tenant Act 1985
Tribunal members	:	Judge David Wyatt
Date of decision	:	12 November 2020

DECISION

Covid-19 pandemic: description of hearing

This has been a remote determination on the papers which the parties are taken to have consented to, as explained below. The form of determination was P:PAPERREMOTE. A hearing was not held because it was not necessary and all issues could be determined on paper. The documents that I was referred to are attached to an e-mail of 10 November 2020 from the Applicant's representative. I have noted the contents and my decision is below.

The tribunal's decision

The tribunal determines under section 20ZA of the Landlord and Tenant Act 1985 to dispense with all the consultation requirements in relation to the flat roof repair works described in the application form and statement.

Reasons for the tribunal's decision

The application

1. The Applicant applied for dispensation from the statutory consultation requirements in respect of qualifying works to replace roof coverings at the Property.
2. The relevant contributions of leaseholders through the service charge towards the costs of these works would be limited to a fixed sum unless the statutory consultation requirements, prescribed by section 20 of the Landlord and Tenant Act 1985 (the “**1985 Act**”) and the Service Charges (Consultation etc) (England) Regulations 2003:
 - (i) were complied with; or
 - (ii) are dispensed with by the tribunal.
3. In this application, the Applicant seeks a determination from the tribunal, under section 20ZA of the 1985 Act, to dispense with the consultation requirements. The tribunal has jurisdiction to grant such dispensation if satisfied that it is reasonable to do so.
4. In this application, the only issue for the tribunal is whether it is satisfied that it is reasonable to dispense with the consultation requirements. **This application does not concern the issue of whether any service charge costs of the relevant works will be reasonable or payable.**

The Property, the parties and the leases

5. The Property is described by the Applicant as a house which was converted into two flats. The application was made against the leaseholders of the flats (the “**Respondents**”). The Applicant is the landlord under the relevant leases.
6. The specimen lease produced by the Applicant includes a covenant by the landlord to maintain repair decorate and renew the main structure, including the roof, of the building (clause 4(3)) and a covenant by the leaseholder to pay half of the relevant costs (clause 3(4) and Part I of the Third Schedule).

Procedural history

7. The Applicant said that the proposed roofing works were urgent, as explained below. Case management directions were given on 7 October 2020, requiring the Applicant to by 14 October 2020 serve on the Respondents copies of the application form, these directions, and a statement to explain when the leak occurred, the claimed need to replace rather than repair the roof, the estimated costs and any other matters relied upon in support of the application for dispensation. The documents in the bundle indicate that the Applicant's representative served these documents on the Respondents by e-mail one day late, on 15 October 2020.
8. The directions included a reply form for any leaseholder who objected to the application to return to the tribunal and the Applicant, indicating whether they wished to have an oral hearing. Any such objecting leaseholder was required to respond by 28 October 2020.
9. The directions further provided that this matter would be determined on or after 6 November 2020 based on the documents, without a hearing, unless any party requested an oral hearing.
10. No leaseholder has responded and no party has requested an oral hearing. The Applicant's representative produced incomplete documents as e-mail attachments on the day of the deadline for production of bundles. When this was returned, it produced a further collection of documents as e-mail attachments on 10 November 2020. Exceptionally, the tribunal has determined this matter based on the documents provided with that e-mail, but the Applicant's representative must be more careful to follow directions in future.
11. On reviewing these documents, which included colour photographs of the roof coverings, the tribunal considered that an inspection of the Property was neither necessary nor proportionate to the issues to be determined and that a hearing was not necessary.

The Applicant's case

12. In the application form (as served on the Respondents), the Applicant said that the roof needed to be replaced. Following a leak, contractors had provided a tarpaulin to cover the roof as a temporary measure, to stop water leaking into the top floor flat.
13. In the further statement (as also served on the Respondents), the Applicant explained that the leak was reported in August 2020 and contractors were booked to attend site on 27 August 2020. The Applicant states that the flat roof coverings were found to be beyond repair, so the tarpaulin was provided. The Applicant says that it

received a quotation on 1 September 2020 for taking back the flat roof covering, supplying and installing new deck boards, installing a single ply membrane and supplying and installing edge and upstand details for the sum of £1,668. It has not explained whether VAT is included in or needs to be added to this sum. The Applicant said it had been advised that the tarpaulin was not watertight (reducing the pace of the leak, not stopping it) and would not protect the Property against heavy rainfall, storms or strong winds.

14. It appears from the documents produced that the works were completed on 3 November 2020. The photographs which have been produced appear to show the replacement flat roof coverings and edges installed between the two pitched roofs on either side.

The Respondents' position

15. As mentioned above, the directions provided for any Respondent who wished to oppose the application for dispensation to complete the reply form attached to the directions and send it to the tribunal and the Applicant. The tribunal has not received any response or statement of case opposing the application, or comments on the Applicant's statements in the application form or statement. The documents produced by the Applicant include an e-mail from one of the Respondents (Mr Ward-Lohan) on 31 October 2020 expressing concern that the works had not yet started, saying that he had been chasing the contractors. As noted above, it appears the works were then carried out and completed on 3 November 2020. In the circumstances, the tribunal concluded that the application was unopposed.

The tribunal's decision

16. This application was not opposed by the Respondents, who have not challenged the information provided by the Applicant with the application form, identified any prejudice which they might suffer because of the non-compliance with the consultation requirements, or asked for or provided any other information. No photographs of the disrepair to the flat roof have been provided, but the Applicant's statements about this have not been disputed.
17. The works are of the type to be expected for flat roofs. Although the Applicant could have carried out at least a partial consultation in the time which has elapsed since the issues were discovered in August, it attempted to have the works carried out sooner. It was clearly reasonable to seek to replace the flat roof coverings as soon as possible, before worsening weather over the winter, reducing the risk of more substantial costs from leaks or other damage.

18. As noted above, this decision does not determine whether the cost of these works was reasonable or payable under the leases, only whether the consultation requirements should be dispensed with in respect of them. In the circumstances, I am satisfied that it is reasonable to dispense with the statutory consultation requirements in relation to these roof repair works.
19. The tribunal determines under section 20ZA of the 1985 Act to dispense with all the consultation requirements in relation to the flat roof repair works described in the application form and statement.
20. There was no application to the tribunal for an order under section 20C of the 1985 Act.
21. The Applicant landlord shall be responsible for serving a copy of this decision on all leaseholders.

Name: Judge David Wyatt **Date:** 12 November 2020

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).