



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

Case reference : **LON/00AW/LDC/2020/0040**

Property : **107 Finborough Road, London
SW10 9DU**

Applicant : **Holland Park Investments Limited**

Representative : **Red Carpet Estates**

Respondent : **The Leaseholders as per the
application**

Representative : **none**

Type of application : **Dispensation under s20ZA
Landlord and Tenant Act 1985**

Tribunal member : **Tribunal Judge Dutton**

Date of decision : **21st May 2020**

DECISION

Decisions of the Tribunal

- (1) This has been a remote determination on the papers, which has not been objected to by the parties. A face to face hearing was not held because it was not practicable and all issues could be determined on papers before me as was requested by the applicant in its application. The documents that I was referred to are in a bundle of some 14 documents together with the application and directions, the contents of which I have noted.
- (2) I determine that dispensation should be granted from the consultation requirements under s20 of the Landlord and Tenant Act 1985 (the Act) and the Service Charges (Consultation Requirements)(England) Regulations 2003 for the reasons I have stated below.
- (3) I make no determination the reasonableness of the costs of same, these being matters which can be considered, if necessary, under the provisions of s27A and s19 of the Act.

The application

1. The applicant sought dispensation from the consultation provisions in respect of urgent works to the parapet to the front of the property at 107, Finborough Road, London SW10 9DU (the Property). The Property contains five flats and is over five storeys, including a basement and mansard level
2. In the papers provided were email exchanges with Caroline Ripley the leasehold owner of flat 4 concerning damage caused to her property. Investigations were undertaken and as a result the leaseholders were written to on 26th February 2020 informing them of the intended works and supplying details of the proposed costs.
3. Two estimates were obtained, one from M Cunningham in the sum of £7,450 and another from Eduard Deda Construction and Joinery in the sum of £3,940, which I understand is the accepted quote. Both quotes set out the work required.
4. In addition to the above, the applicants had, it seems, retained the services of Carter Fielding surveyors to inspect although I have no indication of further involvement on their behalf.
5. In the directions and as set out in the email exchanges between Red Carpet and the leaseholders', comments were invited. Mr Andrew Cooke the leaseholder of flat 1 sent an email dated 23rd March 2020 objecting to the application for dispensation. I have noted all that he has said. His complaint is directed to the landlord's obligations and the liability that

the leaseholders would have in respect of the repair work, that is to say, should the leaseholders pay for the costs of the works, are they covered by insurance, for what reason did the need for the works arise and will the proposed works correct the apparent problem? It is not necessary for me to consider these arguments in any detail as they should be reserved for any application that a party might make under s27A of the Landlord and Tenant Act 1985 concerning the payability and reasonableness of a service charge. My role is to determine whether or not dispensation should be granted. My finding in that regard, as I have indicated, do not impact on any leaseholders' rights under s27A of the Act.

6. I am told in the application that works were due to commence at the beginning of March 2020. It seems to be common ground that the parapet requires urgent attention and that parts have already fallen, thereby creating a threat to persons attending or leaving the Property and damage to the Property structure. I have seen photographs of the state of the parapet, which indicate it is in poor condition and I have seen the email exchanges with Red Carpet and Caroline Ripley concerning damage to her flat, which it would seem is the subject of an insurance claim.

Findings

7. The Law applicable to this application is to be found at s20ZA of the Act. I have borne in mind the Supreme Court decision in Daejan and Benson and although an objection has been raised by Mr Cooke there has not been any allegation of prejudice to the leaseholders as set out in the Daejan case. It is not suggested that the lack of consultation has prevented alternative quotes from being sought. Further it seems clear to me that the parapet to the front of the Property, for whatever reason, is in a state of disrepair, which has caused potential danger to users and the Property itself. This, as I have said, appears to be common ground. Accordingly works of repair need to be urgently undertaken. I therefore find that it is reasonable to grant dispensation from the consultation requirements required under s20 of the Act.
8. It will be for the applicant to satisfy any leaseholder that the costs of the works and the works themselves were reasonable and payable under the service charge regime of the leases by which the leaseholders own their interest in their respective flats. My decision is in respect of the dispensation from the provisions of s20 of the Act only.

Andrew Dutton

Name: **Tribunal Judge
Dutton**

Date: **21st May 2020**

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 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 to 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 (ie 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**