



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

Case reference : **LON/00BK/LDC/2020/0041**

Property : **68-89 Piccadilly, London W1J 7NE**

Applicant : **89 Piccadilly Management Limited**

Representative : **Ms Ella Spencer of Burlington Estates
(London) Limited**

Respondents : **The lessees listed in the schedule to the
application**

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

Tribunal Member : **Judge N Hawkes**

London Panel Address : **10 Alfred Place, London WC1E 7LR**

**Date of paper
determination** : **7 May 2020**

DECISION

Background

1. This has been a remote determination on the papers which has been consented to by the applicant and which has not been objected to by the respondents. The form of remote hearing was P: Paper Hearing.
2. A face to face hearing was not held because it was not practicable and all issues could be determined in on the papers. The documents that I was referred to are in a bundle of 87 pages, plus the index, the contents of which I have noted. The order made is described at the end of these reasons.
3. 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 68-89 Piccadilly, London W1J 7NE (“the Property”).
4. The Tribunal has been informed that the Property comprises a residential block of sixteen flats from first floor to sixth floor level, which is situated above two commercial units.
5. The application is dated 24 February 2020 and the respondent lessees are listed in a schedule to the application. The applicant seeks dispensation from the statutory consultation requirements in respect of work which was carried out on 8 and 9 January 2020 to replace crack cast iron pipework at the Property (“the Work”).
6. Directions of the Tribunal were issued on 10 March 2020. The proceedings were then stayed on 19 March 2020 due to the covid-19 pandemic. A digital hearing bundle was requested by the Tribunal on 22 April 2020 and, following receipt of this bundle, the matter was listed for a paper determination.
7. The Tribunal did not consider an inspection of the Property to be necessary, practicable or proportionate to the issues in dispute.

The applicant’s case

8. In the application, the applicant states:

“On 28 November 2019, the descaling of the stack pipes at the property was carried out by Unbloc Drainage Engineers Ltd following the recommendation from the CCTV survey carried out on 20 September 2019 ... The descaling works led to some major leaks by revealing cracks which were previously sealed by the limescale ... Unbloc then reattended on 29 November 2019 to ensure that the leaks were brought under control until permanent repairs could be made. ... On the 24 December 2019, Burlington Estates on behalf of the Landlord instructed Unbloc to undertake replacement of the cracked cast iron pipework in the boiler room at a cost of £4,985 + VAT which is £2,772.76 over the section 20 limit for this building ... Unbloc attended on 8 and 9 January 2020 to carry out these works.

...

Consultation with leaseholders has not been carried out due to the urgency for the pipework to be replaced to prevent any further damage to the fabric of the building. Residents were notified by email of the leaks and the engineers' presence on site on 28 and 29 November 2019. "

9. In support of the application, the applicant has provided the Tribunal with an undated report from Unbloc Drainage Engineers Limited ("Unbloc") job number 62418; an email from Unbloc dated 29 November 2019; photographs supplied by Unbloc; a CCTV Survey Report dated 20 September 2019; and relevant correspondence.

The respondents' case

10. None of the respondents has filed a reply form and/or representations opposing the applicant's application.

The Tribunal's determination

11. Section 20 of the 1985 Act provides for the limitation of service charges in the event that statutory consultation requirements are not met.
12. 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.
13. The consultation requirements are set out in the Service Charges (Consultation Requirements) (England) Regulations 2003.
14. 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.
15. In all the circumstances and having considered:
 - a. the information contained within applicant's application;
 - b. the evidence filed in support of the application; and
 - c. the lack of any opposition and/or challenge to the application on the part of the respondents,

the Tribunal accepts that the Work was urgently required determines, 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 the Work.

16. This decision does not concern the issue of whether any service charge costs will be reasonable or payable.

Judge Hawkes

Date 7 May 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).