



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

**Case reference** : **LON/00AM/LDC/2020/0133**

**HMCTS code** : **P:PAPERREMOTE**

**Property** : **Flats A, B & C, 10 Alvington Crescent,  
London, E8 2NW**

**Applicant** : **10 ALVINGTON CRESCENT RTM  
COMPANY LIMITED**

**Representative** : **Warwick Estates (Sarah Oakley)**

**Respondents** : **THE LEASEHOLDERS OF THE 3 FLATS  
LISTED IN THE APPLICATION**

**Representative** :

**Type of application** : **An Application for a Dispensation  
Order pursuant to section 20ZA of the  
Landlord and Tenant Act 1985**

**Tribunal member** : **JUDGE SHAW**

**Venue** : **PAPER DETERMINATION**

**Date of decision** : **22<sup>nd</sup> February 2021**

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**DECISION**

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### **Covid-19 pandemic: description of hearing**

This has been a remote determination on the papers which has not been objected to by the parties. The form of remote hearing code and description was: P:PAPERREMOTE. A face-to-face hearing was not held because none of the parties requested such a hearing, and all the issues could be determined in a remote hearing, on paper. The documents submitted to the Tribunal will, as necessary, be referred to below, and all papers submitted have been perused and the contents considered. The order made is described at the end of these reasons.

### **Decision of the Tribunal**

The Tribunal determines that an order dispensing with the consultation provisions under section 20 of the Landlord and Tenant Act 1985, is appropriate in this case, and makes such order.

### **The Application**

1. An Application dated 27<sup>th</sup> August 2021 has been received in which the Applicant seeks a determination pursuant to s.20ZA of the Landlord and Tenant Act 1985 (“the 1985 Act”) . .]

### **The Hearing**

2. The Applicant sought a Paper Hearing, which was, as stated above, not objected to by any the Respondents.

### **The Background**

3. The Application concerns the property at 10 Alvington Crescent, London E8 2NW, which is a house converted into 3 flats. The Respondents are both the owners and shareholders of the Applicant RTM company, and the leaseholders of the flats. Directions were given by the Tribunal on **7<sup>th</sup> December 2020**. The background stated in those Directions is sufficiently comprehensive for present purposes, and for ease of reference, is repeated herein.
4. The Application is for dispensation from the statutory consultation requirements in respect of roof works at the property. It is contended that there have been water leakages from the roof and guttering, which have caused water

penetration and damp in the top floor flat, and that it is urgent that repairs be carried out in time to prepare for the inclement weather of the winter. It is understood that the works may, by now already have been carried out. The works are identified in the quotation of Allen and Brown Ltd, dated 17th June 2020, wherein an estimated cost of £936 is supplied. The only issue for the Tribunal is whether it is reasonable to dispense with the statutory consultation requirements. This application does not concern the issue of whether any service charge costs will be reasonable or payable.

### **The Issues**

5. The sole issue in this case is whether the Tribunal is satisfied that it is reasonable for the Tribunal to dispense with the consultation provisions (section 20 of the Act) which would otherwise have applied to the qualifying works at the Property, as described above.

### **The Tribunal's Decision**

6. The Tribunal determines that it is reasonable to dispense with the consultation provisions of section 20 of the Act, pursuant to section 20ZA thereof, and in relation to the works set out above and identified in the Application. A dispensation order to this effect is therefore made, as set out below.

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

7. As mentioned, Directions in this case were given on **7<sup>th</sup> December 2020**. In those Directions, the Respondent leaseholders were given the opportunity both to request an oral hearing and to object to the roof works. No such request has been received by the Tribunal, nor has there been any objection from any of the leaseholder Respondents. This is perhaps not surprising, since it the leaseholders themselves, albeit wearing their corporate hats, who have made this application, through their appointed managing agents. The cost of the works is modest within the range of applications coming before the Tribunal, and the works are not complicated. They are set out in the supporting estimate of cost of Allen and Brown Limited. They are (or were) manifestly urgent,

because water was seeping into the top floor flat, causing damage of both an external and internal kind. Although the modest cost and relative simplicity of these works are referred to, this application relates not to the reasonableness of the cost, but to the question of whether it is reasonable in accordance with the Act, to dispense with the consultation provisions. The Tribunal is in no doubt that it is so reasonable. The possible health and safety risk to occupant of the top flat, and the continuing damage if full consultation were to be pursued, make it reasonable to proceed with the works before the full consultation procedure has been complied with.

## **8. DECISION**

For the reasons set out above, the Tribunal determines that it is reasonable to dispense with the consultation provisions of section 20 of the Act, pursuant to section 20ZA thereof, and in relation to the works described in the estimate supplied by Allen and Brown Limited, supporting the application. A dispensation order to this effect is therefore made. It should be understood that nothing in this Decision precludes the entitlement of the Respondents to challenge the cost, quality, reasonableness or payability of service charges for these works, under the provisions of section 27A of the Act, should they have reason or desire to do so after the works have been completed.

**Name:** JUDGE SHAW

**Date:** 22<sup>nd</sup> February 2021

### **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.