



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

**Case reference** : **LON/00AN/LDC/2021/0050**

**HMCTS code (paper, video, audio)** : **P: PAPERREMOTE**

**Property** : **19 Palliser Road, London W14 9EB**

**Applicant** : **19 Palliser Road (Freehold) Limited**

**Representative** : **Sean Stock of TLC Estate Agents**

**Respondents** : **The tenants of 19 Palliser Road:  
Jocelyn Cooke-Priest, Kerry Huxley, Sarah Taylor and Hisham Kamil**

**Type of Application** : **Dispensation with statutory consultation requirements under s.20ZA Landlord & Tenant Act 1985**

**Tribunal member(s)** : **Judge N Rushton QC  
Mr P Roberts DipArch RIBA**

**Venue** : **10 Alfred Place, London WC1E 7LR**

**Date of hearing** : **10 May 2021**

**Date of decision** : **10 May 2021**

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**DECISION**

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

This has been a remote hearing on the papers which has been consented to or not objected to by the parties. The form of remote hearing was P: PAPERREMOTE. A face-to-face hearing was not held because it was not practicable; no-one requested the same and all issues could be determined on

paper. The documents to which the tribunal were referred were in a bundle of 52 pages, plus associated correspondence with the tribunal, the contents of which have been considered by the tribunal.

### **Decision of the tribunal**

- (1) Dispensation is granted pursuant to section 20ZA of the Landlord & Tenant Act 1985.

### **The application**

1. The Applicant is the freeholder and landlord in respect of the four flats at 19 Palliser Road, London W14 9EB (“**the Property**”), which is a townhouse. It acts through its managing agent Sean Stock of TLC Estate Agents, 8 Hogarth Place London SW5 0QT (“**TLC**”).
2. The Respondents, as identified in a letter/ statement from Mr Stock are:
  - Basement Flat: Jocelyn Cooke-Priest
  - Ground Floor Flat: Kerry Huxley
  - First Floor Flat: Sarah Taylor
  - Second Floor Flat: Hisham Kamil
3. Companies House records show that Ms Cooke-Priest, Ms Huxley and Ms (Kerinda) Taylor are directors of the freeholder company and TLC Real Estate Services Ltd is its Secretary. All of the flats are held under long leases.
4. The Applicant seeks dispensation pursuant to Section 20ZA of the Landlord & Tenant Act 1985 (“the Act”) in respect of consultation requirements in relation to certain “**Qualifying Works**” (within the meaning of the Act).
5. The Qualifying Works comprised breaking through the concrete floor in the basement flat to dig out and replace a soil pipe/ drain which was blocked and possibly collapsed and leaking water into the surrounding ground, including reinstating the floor and testing the drainage.
6. The only issue is whether it is reasonable to dispense with the statutory consultation requirements.

### **Paper determination**

7. The Application is dated 11 February 2021. Directions were issued by Judge Shaw on 16 March 2021.

8. Those directions among other things required the Applicant by 26 March 2021 to send each of the leaseholders copies of the application form, directions and a properly itemised invoice/ quotation explaining exactly why these works were required urgently, and to display a copy of the same in a prominent place in the common parts of the Property.
9. By an email dated 29 March 2021 to the Tribunal, Mr Stock confirmed that all the Respondents were issued with the required documents on 26 March 2021 at 13:40. He said that copies of the application, directions, extended letter of reasons and quotation were placed in the common parts as well.
10. The bundle includes an estimate from Aspect (plumbers and drainage engineers) for intended works on 1 March 2021. This estimate was for £36,340.50 plus VAT, for excavating the ground, protective steps in the living room, removal of a metre depth of reinforced concrete, removing broken pipework and installing a fresh section, joining up and then resealing the foundations. This was estimated to be 14 days work for 3 men at a total labour cost of £31,920 + VAT (or £760 per man per day).
11. There was an alternative quote dated 25 March 2021 from Austin Plumbers Ltd of £16,845 plus VAT with a £5,000 contingency. In addition, the bundle included an estimate for decorating works after the drainage works from a Gary Norris, in the sum of £2,900.
12. The bundle also includes an invoice from Stock Construction (London) Limited for carrying out works at the Property, dated 16 April 2021 and for £14,760 + VAT, or £17,712. (It is unclear if this company is connected with the managing agent, Sean Stock. The directors are different. The amount invoiced is in any event less than the two other estimates.)
13. This invoice states that when the works were carried out, it was discovered that the pipes were not in fact collapsing but had been incorrectly installed. It states that the concrete was dug back and the sewer reconnected and a full drain test carried out. The trenches were then filled with concrete. There are a number of photographs in the bundle showing the works in progress and as completed, including the newly laid pipes and the completed concrete floor (an area which appears about a metre square).
14. No responses and no objections have been submitted by the Respondents, who have taken no active part in this application.
15. The directions provided that the Tribunal would determine the application on the basis of written representations unless any request for an oral hearing was received by 20 April 2021. No such request has

been received. This application has therefore been determined by the Tribunal on the papers supplied by the Applicant, as described above.

16. The directions state expressly that the Application only concerns whether it is reasonable to dispense with the statutory consultation requirements and does not concern the issue of whether any service charge costs resulting from the works are reasonable or payable.

### **The law**

17. Section 20ZA of the Act, subsection (1) provides as follows:

*'Where an application is made to a tribunal for a determination to dispense with all or any of the consultation requirements in relation to any qualifying works or qualifying long term agreement, the tribunal may make the determination if satisfied that it is reasonable to dispense with the requirements.'*

18. The Supreme Court in the case of *Daejan Investments v Benson and others* [2013] UKSC 14 set out certain principles relevant to section 20ZA. Lord Neuberger, having clarified that the purpose of sections 19 to 20ZA of the Act was to ensure that tenants are protected from paying for inappropriate works and paying more than would be appropriate, went on to state *'it seems to me that the issue on which the [tribunal] should focus when entertaining an application by a landlord under section 20ZA(1) must be the extent, if any, to which the tenants were prejudiced in either respect by the failure of the landlord to comply with the requirements'*.

### **Findings of fact**

19. The Application gives the following reasons for seeking dispensation. As at the application date it was said that the mains drainpipe serving the Property had collapsed or cracked, allowing water to seep into the subsoil under the foundations. It was said works would proceed as soon as funds were available to protect the structural integrity and safety of the building. It was said that a full survey was awaited for costs of excavation, removal, replacement and reinstatement and a s.20 notice had been served. It also said that the directors of the freehold company (i.e. three of the four leaseholders) had been informed.
20. It was also said that the Basement Flat was currently vacant, which would make it easier to carry out the works.
21. The details of the two estimates, and the works as in fact carried out and invoiced, are set out above. The Tribunal finds that the works have been carried, as described in the invoice and photographed, on or shortly before 16 April 2021.

22. The s.20 notice of 11 February 2021 invited written observations from the leaseholders by 15 March 2021. There is no evidence that any observations were received from any of the leaseholders, then or subsequently.
23. The Tribunal is satisfied on the basis of the statements in the Application and the documents in the bundle, and in the absence of any representations from the leaseholders, that the Qualifying Works were necessary and urgent in nature, having regard to the risk to the structural integrity of the Property if they were not urgently carried out.
24. In the absence of any submission from any Respondent objecting to the works, the Tribunal found no evidence that the Respondents would suffer prejudice if dispensation were to be granted.

### **Determination**

25. In the circumstances set out above, the Tribunal considers it reasonable to dispense with consultation requirements. Dispensation is granted pursuant to section 20ZA of the Landlord & Tenant Act 1985.
26. This decision does not affect the Tribunal's jurisdiction upon any future application to make a determination under section 27A of the Act as to the reasonableness and standard of the work and/or whether any service charge costs are reasonable and payable.

**Name: Judge N Rushton QC**

**Date: 10 May 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.

If the tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).