



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

Case reference	:	LON/00AW/LDC/2022/0195 P:Paperremote
Property	:	1-7, 2 Southwell Gardens London SW7 4SB
Applicant	:	2 Southwell Gardens Management Limited
Representative	:	Broadland Estate Management LLP
Respondent	:	The leaseholders named on the schedule attached to the application
Type of application	:	To dispense with the consultation requirements under S.20 Landlord and Tenant Act 1985
Tribunal member(s)	:	Mrs E Flint FRICS
Date and venue of determination	:	20 January 2023 Remote on the papers

DECISION

This has been a remote hearing on the papers which has been consented to by the Applicant and not objected to by the Respondent. A face to face hearing was not held because it was not practicable, no-one requested the same, and all the issues could be determined on the papers. The documents that I was referred to were in an electronic bundle, the contents of which I have recorded.

Decision of the tribunal

- (1) The Tribunal grants dispensation from all of the consultation requirements under S.20 of the Landlord and Tenant Act 1985 in relation to repairs to prevent water ingress into Flat 2.
- (2) The question of reasonableness of the works or cost was not included in this application, the sole purpose of which is to seek dispensation.

The Background

1. The application under section 20ZA of the Landlord and Tenant Act 1985 (“the Act”) was made by Broadland Estate Management LLP on behalf of the applicants on 10 October 2022.
2. The application concerned urgent repairs to high level guttering in the lightwell.
3. Directions were issued on 18 October 2022 requiring the applicant to prepare bundles by 5 December 2022 to include statements
 - (i) Setting out the full grounds for the application, including all of the documents on which the landlord relies and copies of any replies from the tenants;
 - (ii) The Leaseholders were asked to confirm by 2 December 2022 whether or not they would give their consent to the application.
 - (iii) In the event that such agreement was not forthcoming the leaseholders were to state why they opposed the application; and provide copies of all documents to be relied upon.
4. On 4 November 2022 Broadland Estate Management LLP, on behalf of the applicant, confirmed that in accordance with the Directions the leaseholders had each been sent a copy of the S20ZA application form, the applicant’s statement of case, a copy of the Directions and reply form. On 21 November 2022 they confirmed that no responses had been received.
5. The Leaseholders were informed in the Directions issued by the Tribunal that the question of reasonableness of the works or cost was

not included in this application, the sole purpose of which is to seek dispensation.

The Evidence

6. 2 Southwell Gardens is an end terrace house which has been converted into seven flats. Following reports of water ingress into Flat 2 a scaffolding tower was erected in the rear lightwell to investigate the cause of the leak. Two quotations were obtained. Skyline Property Maintenance Limited, submitted the cheaper quotation at £2500 + VAT, were instructed to carry out the repairs to the high level guttering and repoint as necessary the brickwork to the rear of the building. Since the work was completed there have been no further issues with water ingress.

The Decision

7. The relevant test to be applied in an application for dispensation was set out by the Supreme Court in Daejan Investments Ltd v Benson & Ors [2013] UKSC 14 where it was held that the purpose of the section 20 consultation procedure was to protect tenants from paying for inappropriate works or paying an inappropriate amount. Dispensation should not result in prejudice to the tenant.
8. The Tribunal determines from the evidence before it that the applicant took all reasonable steps to undertake the repairs in a timely manner to prevent additional damage to the building. The firm which provided the lower quotation undertook the work and there has been no reoccurrence of the leak. There have been no objections from any leaseholder and no prejudice to the lessees has been demonstrated or asserted.
9. On the evidence before it, and in these circumstances, the Tribunal considers that the application for dispensation be granted.

Name: Evelyn Flint

Date: 20 January 2023

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 Tribunal 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 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.
4. 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.