

		<b>FIRST-TIER TRIBUNAL PROPERTY CHAMBER (RESIDENTIAL PROPERTY)</b>
<b>Case reference</b>	:	<b>LON/00AU/LDC/2015/0137</b>
<b>Property</b>	:	<b>De Beauvoir Court, Northchurch Road, London N1 3NX</b>
<b>Applicant</b>	:	<b>De Beauvoir Court Freehold Ltd</b>
<b>Representative</b>	:	<b>M<del>s</del> Anderson – Rendall &amp; Rittner Ltd</b>
<b>Respondents</b>	:	<b>Various tenants</b>
<b>Representative</b>	:	<b>Mr Hayden (on his behalf)</b>
<b>Type of application</b>	:	<b>For dispensation of all or any of the consultation requirements</b>
<b>Tribunal members</b>	:	<b>Mr S Brilliant Mr Cartwright FRICS</b>
<b>Date and Venue of hearing</b>	:	<b>19 February 2016, 10 Alfred Place, London WC1E 7LR</b>
<b>Date of decision:</b>	:	<b>19 February 2016</b>

**Decision of the Tribunal**

The Tribunal determines that those parts of the consultation requirements provided for by Section 20 of the 1985 Act which have not been complied with are to be dispensed with.

**The application**

1. The Applicant seeks a determination pursuant to section 20ZA of the Landlord and Tenant Act 1985 ("the Act") for the dispensation of all or any of the consultation requirements provided for by Section 20 of the

Act. The application was dated 19 November 2015 and was received on 20 November 2015.

2. Directions of the Tribunal were issued on 23 November 2015 and amended on 8 January 2016.
3. The case was listed for an oral hearing.

#### The hearing

4. Mr Anderson of Rendall & Rittner Ltd, the Applicant's managing agent, appeared for the Applicant.
5. Mr Hayden, who is the lessee of Flat 14, is the only Respondent to have objected to the application. He also attended.

#### **Background**

6. De Beauvoir Court, Northchurch Road, London N1 3NX ("the property") which is the subject of this application is described in the application as an "L" shaped purpose built block of flats on 4 floors. There are 5 flats on each floor, making a total of 20 flats.
7. The issue relates to roof repairs. Part of the roof has sunk in and is leaking into flat 19.
8. The surveyors, Cardoe Martin Burr Limited, have prepared a report dated 20 October 2015 following an inspection on 8 October 2015.
9. An area of 2m x 1m in the north west corner of the main roof has begun to sink between the timber joists. However, there is blistering and splitting to the asphalt surface in several locations, which is an indication that the roof is nearing the end of its useful life span.
10. Cardoe Martin Burr recommended that the entire roof be recovered at a cost in the region of £20,000 - £25,000. If there were insufficient funds to do this it recommended that patch repairs be carried out at a cost in the region of £5,000.
11. On 17 November 2015 the Applicant gave notice to the Respondents of intending to carry out the patch repairs.
12. Neither side requested an inspection and the Tribunal did not consider that one was necessary, nor would it have been proportionate to the issues in dispute.

#### **The Applicant's submissions**

13. In the application the Applicant explains why it was necessary to carry out the works as a matter of urgency and seek retrospective

dispensation. It has decided to carry out the patch repairs, which is the cheapest option. We were told that if dispensation were to be given contractors are able to commence the work at a price of £7,950 plus VAT.

### **The Respondents' submissions**

14. Mr Hayden opposes the application on the grounds that the Applicant has known of the need to repair the roof for a considerable period of time, that he notified the Applicant of the current leak in July 2015 and that carrying out patch repairs, rather than replacing the roof, is simply throwing good money after bad.
15. The Applicant is owned by the Respondents who have shares in it. Decisions are taken by a board. The board does not wish to pay for replacing the roof at the moment as it is committed to spending around £120,000 on other repairs as a result of a court order.

### **Decision of the tribunal**

16. Section 20 of the Act provides for the limitation of service charges in the event that the statutory consultation requirements are not met. The consultation requirements apply where the works are qualifying works (as in this case) 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.
17. Dispensation is dealt with by section 20ZA of the Act which provides:-  
  
**"Where an application is made to a leasehold valuation 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 Tribunal is satisfied that, in the particular circumstances of this case involving a real risk of water penetration through the roof, it is reasonable to dispense with the requirements and determines that those parts of the consultation process under the Act as set out in The Service Charges (Consultation Requirements) (England) Regulations 2003 which have not been complied with may be dispensed with.
19. It is unfortunate that having decided to make this application, it has taken so long to determine. This is primarily because the Applicant failed to comply with the directions given on 23 November 2015 to send the directions and other documents to the Respondents by 30 November

2015. Accordingly, the original hearing date of 15 January 2015 was ineffective.

20. It is not for us at this stage to determine the reasonableness or not of the decision to have patch repairs only carried out to the roof. This application does not concern the issue of whether any service charge costs are reasonable or payable.
21. Mr Hayden asked us to impose conditions if we did give dispensation. He asked for his costs or for an order that the Applicant's costs should not be recoverable through the service charge. We do not consider it appropriate to make a condition in this case.
22. The Tribunal's determination is limited to this application for dispensation of consultation requirements under section 20ZA of the Act.

**Name:** Simon Brilliant

**Date:** 19 February 2016