

12643



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

Case References : **LON/00AM/LDC/2018/0003**

Property : **Flats at 88 Chatsworth Road
London E5 0LS**

Applicant : **Radcliffe Investment Properties ltd**

Represented by : **Warwick Estates**

Respondent : **Various leaseholders as set out on
the application**

: :

Type of Application : **S20ZA Landlord and Tenant Act
1985**

Tribunal Members : **Judge F J Silverman Dip Fr LLM
Mr R Shaw FRICS**

**Date and venue of
paper determination** : **14 February 2018
10 Alfred Place London WC1E 7LR**

Date of Decision : **14 February 2018**

DECISION

The Tribunal determines that it will exercise its discretion to dispense with the consultation requirements imposed by s.20 of the Landlord and Tenant Act 1985.

REASONS

1. The Applicant seeks a determination of its application for dispensation from the consultation requirements imposed by s. 20 of the Landlord and Tenant Act 1985.
2. The Application to the Tribunal was made on 20 December 2017.
3. Directions were issued by the Tribunal on 05 January 2018.
4. A paper determination took place in London on 14 February 2018 at which the Tribunal considered the Applicant's application and accompanying documents. Representations had been received from Mr Lunt, one of the Respondent tenants who objected to the application.
5. The property which is the subject of this application comprises residential flats situated above ground floor and basement retail premises in Chatsworth Road.
6. The Tribunal did not inspect the property because to do so would have been disproportionate.
7. The circumstances giving rise to this application are that in September 2017 the tenant of Flat 1 complained to the landlord that she had been experiencing water ingress in her living room thought to be caused by a leak in the roof. Repairs were carried out but these proved to be insufficient to cure the problem and the landlord was advised by contactors that the most viable option was re-roofing of the felted area. In view of the approaching winter and that water penetration was still being experienced by the tenant it was decided to carry out the re-felting immediately although it was recognised that the cost of so doing exceeded the s20 limits.
8. The work has now been completed and the landlord seeks dispensation from the requirements of s20 Landlord and Tenant Act 1985 because of the emergency nature of the repairs.
9. All the tenants have been notified of the situation and of the steps so far taken by the Applicant to undertake the works the cost of which has exceeded the s20 limit.
10. A delay in commencing the work caused by engaging in a consultation process as required by s20 Landlord and Tenant Act

1985 would have resulted in a continued discomfort to the occupiers and further potential damage to the interior of the building.

11. It is common ground that the Applicant has a repairing obligation in respect of the structure, exterior and common parts of the premises imposed on it by the lease.
12. The Applicant sought the Tribunal's consent to dispense with the consultation requirements imposed by s20 Landlord and Tenant Act 1985 in respect of the works which have now been completed.
13. Although one of the Respondent tenants has objected to the application on the grounds that he considers the quality of the work carried out to be unsatisfactory, the Tribunal accepts that the works were both urgent and necessary and given that the proportion of the total cost to be charged to each Respondent is not excessive, the Tribunal is minded to grant its consent to the application.
14. The Tribunal is being asked to exercise its discretion under s.20ZA of the Act. The wording of s.20ZA is significant. Subs. (1) 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* (emphasis added).”

15. The Tribunal understands that the purposes of the consultation requirements is to ensure that leaseholders are given the fullest possible opportunity to make observations about expenditure of money for which they will in part be liable.
16. Having considered the submissions made by the Applicant the Tribunal is satisfied that the works to be carried out by the Applicant were sufficiently urgent and necessary to permit them to exercise their discretion in the Applicant's favour.
17. **This determination does not affect the tenants' rights to apply to the Tribunal challenging the payability or reasonableness of the service charges.**

Judge F J Silverman as Chairman
Date 14 February 2018

Note:
Appeals

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application to the First-tier Tribunal at the Regional office which has been dealing with the case.

2. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.

3. If the person wishing to appeal does not comply with the 28-day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28-day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.

4. The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking.