



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

Case Reference : CHI/ 24UJ/LDC/2020/0082

Property : Roman Quay, High Street, Fordingbridge,
Hants SP6 1AS

Applicant : Tygwin Limited

Representative : Ridge Asset Management

Respondents : 8 Leaseholders

Representative : -

Type of Application : To dispense with the requirement to
consult lessees about major works

Tribunal Member(s) : Judge Tildesley OBE

**Date and Venue of
Hearing** : Determination on Papers

Date of Decision : 29 December 2020

DECISION

The Application

1. The Applicant seeks dispensation under Section 20ZA of the Landlord and Tenant Act 1985 from the consultation requirements imposed on the landlord by Section 20 of the 1985 Act.
2. The Applicant explains that while carrying out external redecorations and repairs, for which there had been a section 20 consultation, additional required remedial work was identified, described in the application form. These works have been commenced without formal consultation, although the lessees were notified on 8 September 2020 as soon as the situation was known. The contractors have provided a quote and works are in progress. The Applicant says that it was essential to get the works done while the scaffolding was still in place to avoid further deterioration and additional re-scaffolding costs.
3. The Application for dispensation was received on 22 October 2020.
4. On 29 October 2020 the Tribunal directed the Applicant to serve the application and directions on the leaseholders which was done on 2 November 2020.
5. The Tribunal directed that the Application would be heard on the papers unless a party requested an oral hearing. No party made such a request.
6. The Tribunal required the leaseholders to return a pro-forma to the Tribunal and the Applicant by 23 November 2020 indicating whether they agreed or disagreed with the application.
7. Three leaseholders returned the pro-forma. Five leaseholders did not. Mr and Mrs Clarke of Flat 11 agreed with the application. Ms C Andrews of Flat 10 and Ms Jordan of Flat 8 objected to the application.
8. The Applicant was obliged to provide a hearing bundle by 30 November 2020. Unfortunately the Applicant failed to do this. Judge Tildesley extended the time for provision of the hearing bundle until 16 December 2020 which the Applicant met.

Determination

9. The Tribunal's decision is confined to the dispensation from the consultation requirements in respect of the works. The Tribunal is not making a determination on whether the costs of those works are reasonable or payable. If a leaseholder wishes to challenge the reasonableness of those costs, then a separate application under section 27A of the Landlord and Tenant Act 1985 would have to be made.

10. The issue in this case is whether the leaseholders would suffer relevant prejudice if the Tribunal granted the Applicant dispensation from the requirement to consult the leaseholders in respect of the additional works identified.
11. The Tribunal finds that the Applicant had complied with the consultation requirements in respect of the major works to the property. The Applicant had issued the Notice of Intention on 2 May 2019 followed by a Statement of Estimates dated 18 February 2020. The reason why the Applicant had to apply for dispensation is that further maintenance was identified which were not included in the original specification. The cost of those additional works was £18,103.00 plus VAT.
12. The Tribunal is satisfied with the Applicant's explanation that it was not possible to identify the additional works until scaffolding had been erected which allowed a more detailed inspection of areas of the building previously not accessible. The Tribunal finds that the additional works which mainly related to woodwork repair or replacement due to rot were essential to maintain the fabric of the building. Further the Tribunal holds that if the Applicant had delayed the implementation of the works to carry out consultation the economies of scale associated with completing these works at the same time as the other major works would be lost and would inevitably result in higher service charges for the leaseholders. Finally the Applicant has mitigated the consequences that may follow from not undertaking consultation by obtaining a quotation from the contractor for the additional works.
13. The Tribunal acknowledges the concerns expressed by Ms Andrews and Ms Jordan about affordability and the reasonableness of the costs for additional works. The Tribunal, however, considers their concerns are not relevant to the question of whether the Tribunal should grant dispensation from consultation. As the Tribunal has already indicated a leaseholder retains the right to challenge the reasonableness of those costs by making separate application under section 27A of the Landlord and Tenant Act 1985.
14. The Tribunal is, therefore, satisfied that the leaseholders would suffer no relevant prejudice if dispensation from consultation was granted.
15. **The Tribunal, therefore, dispenses with the consultation requirements in respect of the additional works.**
16. The Tribunal will advise Mr and Mrs Clarke, Ms Andrews and Ms Jordan of the decision. The Tribunal directs the Applicant to inform the remaining leaseholders of the Tribunal's decision and to display the written decision on a noticeboard in the common areas.

RIGHTS OF APPEAL

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application by email to rpsouthern@justice.gov.uk 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.

Due to the Covid 19 pandemic, communications to the Tribunal MUST be made by email to rpsouthern@justice.gov.uk. All communications must clearly state the Case Number and address of the premises.