



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

Case Reference : CHI/21UC/LDC/2020/0105

Property : Discovery House, 15 Susans Road,
Eastbourne, East Sussex, BN21 3AG

Applicant : Tuscola (FC100) Limited

Representative : Plymouth Block Management

Respondent : The leaseholders

Representative :

Type of Application : To dispense with the requirement to
consult lessees about major works section
20ZA of the Landlord and Tenant Act 1985

Tribunal Member(s) : Judge D. R. Whitney

Date of Determination : 18th March 2021

DECISION

Background

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. Directions were issued on 22nd December 2021.
3. The only issue for the Tribunal is whether or not it is reasonable to dispense with the statutory consultation requirements. **This application does not concern the issue of whether any service charge costs will be reasonable or payable.**

DETERMINATION

4. The directions provided for the matter to be dealt with on the papers unless any party objected. No party has objected and I have carefully considered whether the matter remains suitable for determination on the papers. I am satisfied that it does.
5. The Applicant explains that a Fire Risk Assessment was undertaken in June 2020. This identified various fire safety works were required. A quotation for the works has been obtained from Century group totalling £10,905 plus VAT which was attached to the application. Two other quotes have been obtained. The Applicant wishes to proceed with the works, the cost of which will be funded from existing service charge funds. No consultation has been undertaken save that at least one leaseholder who acts as an informal representative has supposedly approved such works being undertaken as proposed by the Applicant.
6. All leaseholders have been served with a copy of the application and the directions. They were invited to complete a form and return this to the Tribunal confirming whether, or not, they agreed with the Application. Only those leaseholders who positively objected would remain as Respondents to this application.
7. Responses have been received from the leaseholders of 5 flats:
 - Mr C Hanlon-Gouveia Flat 10
 - Ms M Da Silva Goncalves and Mr A Hernandez Flat 30
 - Ms Dodd Flat 39
 - Ms Richardson Flat 58
 - Ms F M Gray Flat 16
8. All agreed with the works proceeding. Mr Hanlon-Gouveia queried why the works had not simply been undertaken by the freeholder and their managing agent.

9. The application refers to the proposed contractor, Century Group being available to commence works in December 2020. It would appear no works have commenced as the managing agent is awaiting the outcome of this application.
10. The application explains that a fire risk assessment was obtained from Firetec signed by a Mr P Richards and dated 10th June 2020. Subsequently it appears quotes were obtained including one from Century Group dated 30th November 2020. No explanation has been provided as to why no attempts between June and November 2020 were made to at least commence a formal consultation under the Landlord and Tenant Act 1985 (“the Act”). No explanation is given as to what if any communications were had with the leaseholders. The Tribunal comments that it would at the very least have expected the representative to have sent a copy of the fire risk assessment to all leaseholders as part of a first stage notice indicating that works will be required.
11. The report highlights the works are urgent, yet it seems to have taken some 5 months to obtain quotes. I am told that the preferred quote (which including VAT totals £13,086) will be qualifying works. Therefore, a consultation under the Act is required or dispensation must be granted. If not then the ability of the Applicant to recover such costs will be capped. The Applicants representative indicates that there are sufficient funds within the blocks service charge funds already collected to pay these costs.
12. I am concerned that looking at the timeline of events it would appear that the representative of the Applicant had sufficient time to consult. I note however the assessment states that the works are urgent. Also, that supposedly three quotations have been obtained and so the Applicant has tested the market. I weigh this apparently sufficient time for consultation up against the fact that all those leaseholders who have responded to the Application appear to support the same.
13. On balance I am satisfied that the Applicant is entitled to dispensation from the requirements to consult pursuant to section 20ZA of the Act. However, such dispensation is only granted conditional upon the Applicant or their representative complying with the following conditions:
 - (i) A copy of this decision will be sent by the Applicant to each and every leaseholder;
 - (ii) A copy of all three estimates received by the Applicants agent shall be provided to each and every leaseholder together with all documents supplied to the contractors to enable them to provide their quotation;

14. Upon the above conditions being complied with the Applicant is granted dispensation from consultation in respect of the works identified within the Firetec Report dated 10th June 2020.
15. All parties are reminded that in granting dispensation the Tribunal makes no findings as to the leaseholders' liability to pay for such works or the reasonableness of the costs of the same.

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 to the First-tier Tribunal at rpsouthern@justice.gov.uk being 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