



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

Case reference : **LON/00BG/LDC/2014/0155**

Property : **Canary Riverside, London E14**

Applicant : **Canary Riverside Estate
Management Limited**

Respondents : **Various leaseholders as per the
application**

Type of application : **To dispense with the requirement
to consult leaseholders about
major works**

Tribunal members : **Judge P Korn
Mr T Sennett FCIEH**

Date of decision : **3rd February 2015**

DECISION

Decision of the tribunal

- (1) The tribunal dispenses with those of the consultation requirements not complied with by the Applicant in respect of the qualifying works which are the subject of this application.
- (2) No cost applications have been made.

The application

1. The Applicant seeks dispensation under section 20ZA of the Landlord and Tenant Act 1985 ("**the 1985 Act**") from some of the consultation requirements imposed on the landlord by section 20 of the 1985 Act in relation to certain qualifying works.
2. The qualifying works which are the subject of this application comprise the replacement of a "Bus Bar" and an "Air Circuit Breaker Unit" at the Property.

Paper determination

3. In its application the Applicant stated that it would be content with a paper determination if the tribunal considered it appropriate. In its directions dated 21st November 2014 the tribunal agreed that the matter could be justly and fairly dealt with on the papers, that is without an oral hearing.

Applicant's case

4. The Applicant states that a section of the Bus Bar referred to above has failed and the Air Circuit Breaker Unit (ACB) has been damaged. A Bus Bar is a strip or bar of copper, brass or aluminium which conducts electricity between and within a switchboard, distribution board, substation, battery bank or other electrical apparatus. The role of an ACB is to disconnect the electrical supply when short-circuited or overloaded.
5. The Property has an electrical switch room containing two Transformers which together with their main panels feed power to Eaton House, Circus Apartments and Belgrave Court. The service areas within these buildings supply utilities to residents, the Four Seasons Hotel and the Virgin Active Health Club. The section of the Bus Bar which has failed is a connection between two main panels to enable power to be fed via an alternative route in an emergency. During a normal running period the main ACB was tripped and power was lost to the supply to Eaton House. On re-setting and switching it back on, the Bus Bar failed due to an earthing fault. This caused a high resistance to pass back through the ACB, the current being much higher than the

ACB would normally (and could) take, thereby causing damage to the ACB.

6. The ACB has since been cleaned and inspected, and due to the damage sustained and various other factors the Applicant is of the view that a new ACB will have to be supplied and fitted. The damaged section of the Bus Bar will also need to be replaced.
7. The Applicant has received two quotations for this work and wishes to proceed with the lower of the two quotations. The exact amount of the lower quotation still needs to be confirmed but the Applicant is confident that it will be lower than the alternative.
8. The Applicant sent a Section 20 Stage 1 Notice to all leaseholders and to the three Residents Associations on 7th November 2014 together with a covering letter. It also wrote to all leaseholders and to the Residents Associations on 19th November 2014 explaining why it was seeking dispensation from full compliance with the Section 20 consultation requirements and answering an observation received from one of the leaseholders.
9. The Applicant is seeking dispensation because in its view the need to replace these parts has become critical and failure to do so quickly could affect the health and safety of some 1,500 to 2,000 people across the estate. The advice received from the Applicant has failed to reply to certain questions regarding the proposed works, the main estate facilities management company, is that they cannot confirm if and when another power surge might occur but that when one does the power and water supply will be lost. The urgency and health and safety concerns arise from the fact that the power is currently being supplied via its original route but with the damaged section disconnected.
10. The section of Bus Bar needed will have to be made to order, and this will take time, which adds to the urgency of ordering it.

Responses from the Respondents

11. Some responses have been received from Respondents. Nobody is opposing the application for dispensation. However, some concerns have been expressed. The Residents Association of Canary Riverside has commented that the Applicant apparently failed to comply with the Tribunal's directions, thereby making it harder for the Residents Association to make observations. It has also commented that the Applicant has failed to reply to certain questions regarding the proposed works and that the originally estimated cost has nearly doubled. Certain other comments have also been made, but it is not considered relevant to this specific application to set them out in full.

12. There are also some emails from individual leaseholders raising similar concerns.

Applicant's comments on Respondents' observations

13. The Applicant acknowledges that it initially failed to send out copies of the directions to the Respondents, but this failure was then rectified together with an apology. As regards any concerns that they may have, none of the Respondents has called the Applicant's agents to discuss matters or to arrange a meeting.
14. The questions regarding the proposed works were responded to on 16th January 2015. The reasons for the changes in cost were explained to leaseholders in an update letter, and other points have also been explained in correspondence.

The relevant legal provisions

15. Under Section 20(1) of the 1985 Act, in relation to any qualifying works *"the relevant contributions of tenants are limited ... unless the consultation requirements have been either (a) complied with ... or (b) dispensed with ... by ... the appropriate tribunal"*.
16. Under Section 20ZA(1) of the 1985 Act *"where an application is made to the appropriate tribunal for a determination to dispense with all or any of the consultation requirements in relation to any qualifying works..., the tribunal may make the determination if satisfied that it is reasonable to dispense with the requirements"*.

Tribunal's analysis

17. The tribunal notes the circumstances in which the application for dispensation has been made. Based on the evidence supplied by the Applicant, which has not been contradicted by any of the Respondents, the tribunal concludes that there is a large degree of urgency in relation to the carrying out of these works. Having taken advice from Shepherd FM, the Applicant has formed the view that failure to act quickly could affect the health and safety of some 1,500 to 2,000 people across the estate, and in our judgment this is a reasonable conclusion to have reached.
18. Some of the Respondents have raised concerns but none of them opposes the application for dispensation. Whilst the concerns are noted, (a) the Applicant has gone some way towards tackling them and (b) more importantly in this context, these concerns are not in our view relevant to the question of whether dispensation should be granted.

19. On the basis of the evidence provided and submissions received, the Tribunal is satisfied that it is reasonable to dispense with those of the consultation requirements which have not been complied with. The evidence indicates that the works are urgent, the application has not itself been opposed by any of the Respondents and the Applicant has gone a significant way towards complying with the consultation requirements in the time available.

20. For the avoidance of doubt, this determination is confined to the issue of consultation and does not constitute a decision on the reasonableness of the cost of the works.

Name: Judge P Korn

Date: 3rd February 2015