



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

Case reference : LON/00BD/LDC/2019/0143

Property : Harrods Village, Trinity Church Road,
Barnes London SW13 8ES

Applicant : The Village Estate Management Company

Representative : Rendall and Rittner Limited

Respondents : Various leaseholders as per the
application

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

Tribunal : Judge Daley
Mr Barlow FRICS JP

Date of decision : 15 October 2019

DECISION

The Tribunal has determined that the Applicant shall be granted dispensation from the statutory consultation requirements in relation to works to address the lack of heating and hot water caused by leaking and damaged pipes connected to the district heating system. This work was recommended by the specialist M&E Consultant, Apex CPMS Limited (at a meeting on 19 July 2019). These details were provided in the statement of James Mattocks of Rendall and Rittner Limited.

Reasons

1. The Applicant is the freeholder of a large estate comprising 247 units, estate grounds and a residents' leisure centre. The estate comprises 38 freehold houses, the remainder being leasehold apartments split across 8 blocks all of the apartments and the leisure centre are connected to a central heat

network system. The property is managed on their behalf by Rendall and Rittner Limited Urban Owners.

2. The Applicant in their statement set out that towards the end of June 2019 they began to experience problems with the communal heating system which resulted in a complete shutdown of the system on 25 June 2019, despite 3 boilers and associated plant having been replaced at the end of 2018, these problems continued. This led to excavation works which found that the pipes serving the apartment blocks and the leisure centre were in an extremely poor state. As a result of these issues the leisure centre was closed, however this has not been taken into account by the Tribunal in determining the urgency of the work.
3. A notice of Intention was served on 24 July 2019 however as a result of the excavation work the situation was made worse and some of the fragile pipes were affected. The Applicant for a dispensation of the consultation requirement to enable the work to be carried out as the work was considered to be urgent as there was a risk that properties would be left without heating and hot water.
4. The Applicant felt that works were too urgent to allow for compliance with the statutory consultation requirements under section 20 of the Landlord and Tenant Act 1985 and the Service Charges (Consultation Requirements) (England) Regulations 2003 and applied for dispensation from those requirements under section 20ZA of the Act.
5. The Tribunal gave directions on 28th August 2019 requiring the Applicant to display and send to each lessee both the application and the directions. The directions included a pro forma for the leaseholders to complete indicating whether they supported the application or whether they wished to oppose the application. Over 20 Leaseholders indicated their support for the application, and there were no responses which opposed the application being granted.
6. The Tribunal was not provided with a copy of the lease for one of the flats and accordingly has not determined that the work carried out/proposed to be carried out is within the scope of the Applicant's obligations.
7. In accordance with the Supreme Court's decision in *Daejan Investments Ltd v Benson* [2013] 1 WLR 854, the primary issue when considering dispensation is whether any lessee would suffer any financial prejudice as a result of the lack of compliance with the full consultation process.
8. There is clearly a significant issue which needs to be addressed urgently. The Applicant is proceeding with work set out in the quotations provided by PHD Mechanical in the sum of just under £50,000. It is unfortunate that there has yet to be a final estimate of the likely cost and, therefore, the likely service charges. However, whether such charges are reasonable or payable is a separate issue from that being considered in this decision.

9. Given the lack of objection or any proven prejudice, the Tribunal is satisfied that it is reasonable to dispense with the statutory consultation requirements.

Name: Judge Daley

Date: 15 October 2019