



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

Case Reference : LON/00AA/LDC/2016/0074

Property : 5 New Bridge Street
London EC4V 6AB

applicant : BM Corporate Holdings Limited
(freeholder)

Representative : Cordrose Management Limited

Respondents : The leaseholders of Flats 1A-5
5 New Bridge Street EC4V 6AB

Representative : None

Type of Application : To dispense with the requirement to
consult lessees about major works –
S20ZA Landlord and Tenant Act 1985

Tribunal Members : P M J Casey MRICS

**Date and venue of
Hearing** : Paper determination on 7 September
2016 10 Alfred Place, London WC1E
7LR

Date of Decision : 19 September 2016

DECISION

Decision of the tribunal

- (1) The tribunal determines that it is satisfied that it is reasonable to dispense with all of the consultation requirements of Section 20 of the Landlord and Tenant Act 1985 (the Act) and the Service Charges (Consultation Requirements) (England) Regulations 2003 (the Regulations)

The application

1. The applicant seeks a determination pursuant to s.20ZA of the Act that the consultation requirements of the Act may be dispensed with in respect of certain works at 5 New Bridge Street London EC4V 6AB (“the property”)
2. The applicant requested a “paper determination” and the Tribunal accepted that this was appropriate although the Directions for the management and progression of the application gave the respondent lessees of the flats at the property the opportunity to request an oral hearing; none did so.
3. The Directions further required the applicant to serve a copy on each lessee together with a pro forma response slip which they were asked to complete showing their support of or opposition to the application though it was made clear that a non-response would be taken as support. None of the long leaseholders returned a completed pro forma slip.
4. The bundle of documents produced by the applicant in accordance with the directions was considered by the Tribunal on 7 September 2016.

The background

5. The property which is the subject of this application is a mid-19th Century building which has been converted into nine self-contained flats and two commercial units.
6. None of the parties requested an inspection and the tribunal did not consider that one was necessary, nor would it have been proportionate to the issues in dispute.
7. The Respondents hold long leases of the flats at the property which require the landlord to provide services and the tenant to contribute towards their costs by way of a variable service charge. There is no suggestion in this application that the matter in respect of which the dispensation is sought falls outside the applicant’s obligations under

the leases nor that the lessees are not required to contribute to the costs incurred by the applicant landlord.

The issues

8. The relevant issue for determination had been identified in the directions as whether or not it would be reasonable for the Tribunal to grant the applicant dispensation from all or any of the consultation requirements set out in the Act and the Regulations in respect of certain major works to be carried out at the property to rectify a serious leak of water into the property that occurred during recent storms.
9. Having read the evidence and submissions from the applicant and considered all of the documents provided, the tribunal makes the determination applied for.

The tribunal's decision

10. The tribunal determines that it is reasonable to dispense with all of the consultation requirements of the Act and the Regulations in respect of the works referred to in the application dated 9 July 2016.

Reasons for the tribunal's decision

11. The applicant's managing agent, Cordrose Management Limited, say that following heavy rain storms in June this year there was a serious leak of water into the building most noticeably in the Chinese restaurant on the ground floor. Investigations showed the most likely cause was a blocked, possibly defective valley gutter and damaged rendering to the rear wall rendering. Urgent action was considered necessary to prevent further ingresses of water causing more extensive damage within the building and to its fabric. The agents emailed and wrote to the residential long leaseholders in mid-July advising them of the problem and advising that, in view of the urgency in tackling the problem it was intended to apply to the tribunal to dispense with the consultation requirements of S20 of the Act. An estimate of costs likely to be incurred was given in sum of £5,000 to £6,000 plus VAT which could be met from reserves without seeking further funds.
12. On 12 August they wrote again outlining the anticipated scope of the works to be carried out and the reasons for seeking dispensation. They also advised that the costs were now thought to significantly exceed the initial estimate which would require a special collection of funds. The major reason for the increase in estimated costs related to the need to provide scaffolding in Bride court and the air well behind the rear wall to provide safe working access. They also advised that only with scaffolding in place could the full extent of work needed be firmly established.

13. The freeholder owns the long leases of 6 of the flats and presumably supports the application, Flat 2A is owned by Mr and Mrs Hock who have not indicated any opposition while Flats 1A and 5 are owned by Mr and Mrs Pfeiffer. The latter e-mailed the agents on 20 July to say that without waiving their rights in respect of future projects they were happy to proceed as proposed. They asked to be kept informed regarding costs and suggested two or three estimates be obtained. They e-mailed again on 17 August raising various issues relating to previous repairs, access/need for scaffolding and whether maintenance schedules had been adhered to but again confirming they accepted dispensation from S20.
14. The builder instructed to investigate the problem provided his repair estimate on 16 August in the sum of £16,041 plus VAT and again confirmed the need for scaffold access which accounted for slightly more than £10,000 of this sum. They also provided an answer to all the points raised by the Pfeiffers which was presumably passed to them with the estimate. They have apparently raised no more issues. The works were to being shortly after this date.
15. The tribunal is well aware of the urgency needed to resolve serious water ingress into a building. None of the leaseholders oppose the application and whilst only one cost estimate has been provided, presumably by the contractor who will carry out the works, the leaseholders have the right to make an application to challenge the quality of the works done and their costs if after completion they feel they have not received value for money. Having carefully considered the documents and photographs provided in the hearing bundle the tribunal is satisfied that it is reasonable to dispense with all of the consultation requirements of the Act and the Regulations in respect of the works described in the builder's estimate of 16 August 2016.

Name: P M J Casey

Date: 19 September 2016

Rights of appeal

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the tribunal is required to notify the parties about any right of appeal they may have.

If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber), then a written application for permission must be made to the First-tier Tribunal at the regional office which has been dealing with the case.

The application for permission to appeal must arrive at the regional office within 28 days after the tribunal sends written reasons for the decision to the person making the application.

If the application is not made within the 28 day time limit, such application must include a request for an extension of time and the reason for not complying with the 28 day time limit; the tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed, despite not being within the time limit.

The application for permission to appeal must identify the decision of the tribunal to which it relates (i.e. give the date, the property and the case number), state the grounds of appeal and state the result the party making the application is seeking.

If the tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).