

10644f



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

Case References : **LON/00AG/LDC/2015/0013**

Property : **Palace Court 250 Finchley Road
London NW3 6DN**

Applicant : **Mr S Truman (FTT appointed
Manager)**

:
:

Respondent : **Various leaseholders of Palace
Court as set out on the application**

:
:

Type of Application : **S20ZA Landlord and Tenant Act
1985**

Tribunal Members : **Judge F J Silverman Dip Fr LLM
Ms S Coughlin MCIEH**

**Date and venue of
paper determination** : **2 March 2015
10 Alfred Place London WC1E 7LR**

Date of Decision : **2 March 2015**

DECISION

The Tribunal determines that it will exercise its discretion to dispense with the consultation requirements imposed by s.20 of the Landlord and Tenant Act 1985.

REASONS

1. The Applicant landlord seeks a determination of its application for dispensation from the consultation requirements imposed by s. 20 of the Landlord and Tenant Act 1985.
2. The Application to the Tribunal was made on 22 January 2015.
3. Directions were issued by the Tribunal on 2 February 2015.
4. A paper determination took place in London on 2 March 2015 at which the Tribunal considered the Applicant's application and accompanying documents together with the representations made by two of the Respondent tenants.
5. The property which is the subject of this application is a purpose built block of flats. The Directions issued by the Tribunal and sent by the Applicant to all Respondents only required those who objected to the application to respond. Only two replies were received by the Tribunal and of those only one made representations objecting to the application. In accordance with Direction 5 the Tribunal makes the assumption that the remaining Respondents had no major objection to the Applicant's proposals.
6. The Tribunal did not inspect the property because to do so would have been disproportionate.
7. Following his appointment in 2014 the Applicant became aware that there were existing electrical faults in the property. Some repairs were effected but in January 2015 but following a power breakdown at the block the electrical contractors issued a 'fire hazard warning' and recommended that works to repair and replace electrical fuse boxes and conduits should be carried out as a matter of urgency. In view of the fire risk to the property a decision was taken to proceed with the work immediately. A delay in commencing the work caused by engaging in a consultation process as required by s20 Landlord and Tenant Act 1985 might have left the tenants without electric power over the winter months. The work to replace the electrical cables and boxes was estimated to cost about £17,880,00 and is close to completion save for a connection to one flat whose owner had refused entry to the landlord's contractors.

8. It is common ground that the Applicant has a repairing obligation in respect of the structure, exterior and common parts of the premises imposed on it by the lease.
9. The Applicant sought the Tribunal's consent to dispense with the consultation requirements imposed by s20 Landlord and Tenant Act 1985 in respect of the now almost completed works to the electrical system in the common parts of the property.
10. In view of the fact that the overwhelming majority of the Respondent tenants have not objected to the application, the works were both urgent and necessary and that the proportion of the total cost to be charged to each Respondent is not excessive, the Tribunal is minded to grant its consent to the application. It does however question why the Applicant did not make the application before or at the time when the original repair work was being carried out in November 2014 but chose instead to apply after those works had been completed.
11. In support of their application the Applicant did supply the Tribunal with copies of a survey report which recommended the works which were carried out and which indicated that the work was urgent.
12. In relation to the two objectors, Mr Norman's objections were not connected to the works but rather to the conduct of the Manager himself. Ms Abiola objected on a misconceived understanding of the terms of the lease alleging erroneously that the works were outside the scope of the Manager's responsibilities.
13. The Tribunal is being asked to exercise its discretion under s.20ZA of the Act. The wording of s.20ZA is significant. Subs. (1) provides:

"Where an application is made to a [leasehold valuation] tribunal for a determination to dispense with all or any of the consultation requirements in relation to any qualifying works or qualifying long term agreement, the tribunal may make the determination *if satisfied that it is reasonable to dispense with the requirements* (emphasis added)."

14. The Tribunal understands that the purposes of the consultation requirements is to ensure that leaseholders are given the fullest possible opportunity to make observations about expenditure of money for which they will in part be liable.
15. Having considered the submissions made by both parties the Tribunal is satisfied that the works carried out by the Applicants were sufficiently urgent and necessary to permit them to exercise their discretion in the Applicant's favour.
16. This determination does not affect the tenants' rights to apply to the Tribunal challenging the payability or reasonableness of the service charges.

Judge F J Silverman as Chairman
Date 2 March 2015

Note:
Appeals

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 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.