

12324



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

Case Reference : **LON/00AH/LDC/2017/0072**

Property : **Abinger Court 8 Elmwood Road
Croydon Surrey CRO 2SG**

Applicant : **Meadingrow Investments Limited**

Representative : **HML Andertons Property and
Estate Management**

Respondent : **ALL LESSEES AS PER
APPLICATION**

Representative : **n/a**

Type of Application : **For dispensation from the
consultation requirements
required by section 20 of the
Landlord and Tenant Act 1985**

Tribunal Members : **Judge Carr**

Date of Decision : **8th August 2017**

DECISION

Decision of the Tribunal

1. The Tribunal determines to exercise its discretion to dispense with the consultation requirements contained in Part 2 of Schedule 4 to the Service Charges (Consultation Requirements) England) Regulations 2003.

The Application

2. Ms Larissa Burton, on behalf of HML Andertons managing agents for the freeholder of the premises, applied on 30th June 2017 under section 20ZA of the Landlord and Tenant Act 1985 for dispensation from the consultation requirements contained in Part 2 of Schedule 4 to the Service Charges (Consultation Requirements) England) Regulations 2003.

Procedure

3. The Tribunal held a case management review of this matter on 10th July 2017 and issued directions on the same date. In those directions it was decided that in view of the urgency of the application the matter should be determined on the basis of written representations and without an oral hearing.
4. The Directions gave an opportunity for any party to request an oral hearing. They also gave an opportunity for any leaseholder who wishes to oppose the application from the landlord to provide a statement to the Tribunal setting out his or her reasons for so doing. None of the parties requested an oral hearing, nor has any leaseholder indicated opposition to the application, and therefore the matter is being determined on the basis of the documents provided.

Determination

The Evidence

5. The evidence before the Tribunal indicates as follows:
 - a. The Managing Agents for the subject property have discovered that the communal soil stack and pipework are defective, in that they are 50 mm narrower than they should be. As a result waste water has escaped from the gap flooding the demised flats and communal areas and causing extensive damage.

- b. The managing agents received a report from Drainrod Environmental Services which recommended replacement of the soil stack and surrounding pipework.
- c. Two quotations were obtained after the leaks, the first was from Drainrod Environmental services at £1960 + VAT, the second from BML Drainage for \$4588.00.
- d. The managing agents applied to the Tribunal for dispensation from the consultation requirements as the defective soil stack and pipework has caused substantial damage and is a health and safety risk. Because of the urgency of the works the managing agents instructed Drainrod to go ahead with the works. Not only was their price more competitive, they have previously carried out works to the property.
- e. No formal consultation has been carried out with the lessees as the matter was deemed to be too urgent.
- f. Following the issue of directions, the managing agents communicated with all of the lessees about the proposed works and their urgency. No objections were received in connection with the proposed works.

The Law

- 6. 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:
- 7. “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).

The Tribunal’s decision.

- 8. The Tribunal determines to grant the application.

The reasons for the Tribunal’s decision.

9. The Tribunal considers that the works are necessary and urgent; in particular it notes that there is a health and safety risk.

The parties should note that this determination does not concern the issue of whether any service charge costs will be reasonable or indeed payable. The Respondents are able, if it appears to them to be appropriate, to make an application under s.27A of the Landlord and Tenant Act 1985 as to reasonableness and payability.

Signed Judge Carr

Dated 8th August 2017