

10454



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

Case Reference : LON/00AH/LDC/2014/0137

Property : 386 London Road, Croydon CRO2SU

Applicant : Adriatic Land 2 Ltd

Representative : Luke Waller – Residential Management Group Ltd

Respondent : Leaseholders of the property as identified in the Schedule attached to the Application

Representative : Unrepresented

Type of Application : Application for the dispensation of all or any of the consultation requirements provided for by Section 20 of the Landlord & Tenant Act 1985 – Pursuant to Section 20ZA of the Act

Tribunal Members : Judge S Shaw

Date and venue of Determination : 10 Alfred Place, WC1E 7LR,
5th December 2014

Date of Decision : 5th December 2014

DECISION

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Introduction

1. This case involves an Application dated 15th October 2014, made pursuant to the Provisions of Section 20ZA of the Landlord & Tenant Act 1985 ("The Act"). The Application is made by Adriatic Land 2 Limited ("The Applicant") in respect of the property situate and known as 386 London Road, Croydon CRO 2SU ("The Property"). The property comprises a block of flats built in 2008 containing 37 units set out over 6 floors. The Respondents are as identified in the Schedule to the Application and are the Leasehold owners of the flats. The Application is for an Order from the Tribunal made pursuant to the above statutory provisions, for a determination dispensing with all or any of the consultation requirements in relation to the work which will be identified below.

2. Directions were given by the Tribunal shortly after receipt of the Application, those directions being dated 17th October 2014. As identified in the Directions, the relevant work in this case involves works of repair or replacement in respect of the lift at the property. The works include work to the control system, the floor selector, shaft switches, wiring and installing of a car top control. The Application was made at a time when the works had already been commissioned to be carried out. The reason for this was that several occupiers of the flats at the property are elderly residents. Others are those with small children and there are various other occupiers who, for a variety of reasons, would be placed in great difficulty in the absence of a lift for this multi-storey building. For reasons to be mentioned below, the lift had already been out of action for about four or five weeks prior to the making of the Application.

3. The Directions required service of the Application upon the Respondent Leaseholders in the manner directed at the sixth paragraph of the Directions and amongst the ways of bringing the Application to the attention of the Respondents was the placing of a copy of the Application and accompanying documents in the hall or notice board of the block by

the 27th of October. There is a photograph in the papers subsequently supplied by the Applicant to the effect that this did indeed take place.

4. By the 3rd of November 2014 the Respondents were directed to complete a form accompanying the Directions indicating whether they consented to or opposed the Application and furthermore, whether it was desired that a hearing take place.
5. There were then Directions to the effect that full details of this Application should be compiled in a bundle as directed at Direction 8 – with one copy of the whole bundle being sent to anybody who opposed the Application. After this had taken place the Leaseholders were directed to submit their own statement of case indicating why, if it was the case, they opposed the Application and giving various other information as set out at Direction 9 of the Directions.
6. In the event, only two of the forms referred to have been returned to the Tribunal by Leaseholders. One entirely supports the Applicant's Application and the other merely indicates that it does not oppose the determination of the matter on paper without a hearing – and is silent as to whether or not the Application is opposed or consented to. No other communications have been received of any kind from Leaseholders at the block.
7. The particular circumstances of the Application have been set out by Mr Luke Waller in a letter to the Tribunal dated 21st October 2014. It should be said that the residents at the block had already been written to by Mr Waller by letter dated 14th October 2014 appearing at pages 19 and 20 in the bundle prepared. In that letter he had given full details to the Leaseholders of the position in relation to the lift and the cost of repairing or replacing the necessary parts in order to have a properly functional lift at the property. A quotation of £16,984.00 plus VAT had been obtained from Langham Lifts. Which quotation is set out at pages 21 and 22 in the bundle.

8. In short, this lift was installed, according to the Applicant, at or about the time of the building of the property. It is of Spanish manufacture and had been breaking down regularly prior to October of 2014. Attempts were made through Langham Lifts to obtain replacement parts. These parts had to be obtained from abroad and delay and difficulty had been caused in this regard. Even after installation of the parts the lift was not functioning properly. The situation obtaining was untenable given that the lift had been out of operation for five weeks prior to October 2014, during which time efforts had been made to remedy the lift in situ. The position was untenable because many of the occupiers, for the reasons indicated above, could not obtain proper access to their homes given that they would have to walk many flights of stairs in order to reach their respective flats. Many of the Leaseholders were complaining bitterly to Mr Waller and to the operatives on site who were endeavouring to render the lift functional. Faced with this situation the Applicant was compelled to take more radical action and effectively to replace the major component parts of the lift which work was commissioned – apparently without great opposition and perhaps some support in principle from many of the occupiers. Those works started in mid-October 2014, and, presumably, have by the date of this Decision been completed.

9. The Tribunal has power pursuant to Section 20 ZA to dispense with all or any of the consultation requirements in relation to any qualifying works of this kind, provided that the Tribunal is satisfied that it is reasonable to dispense with those requirements. This is a case in which more than reasonable efforts appear to have been made to recue the existing lift but to no avail. The absence of a lift in a block of this size is plainly unacceptable for many of the residents. Ample opportunity has been given to the Leaseholders to call for an oral hearing and/or to indicate whether or not the works are opposed or challenged in any particular way. As indicated above, only two responses have been received, neither of which have opposed the works taking place and one of which supports the works. There is some evidence in the bundle prepared on behalf of

the Applicant of some other occupiers querying the cost and seeking further information about the new lift installation – but none of these observations appear to amount to an objection to the works taking place at all, and certainly none of them have been crystallised in any representations to the Tribunal.

Conclusion

10. The Tribunal is satisfied that this is an appropriate case in which to dispense with the consultation requirements of Section 20. These works were urgently required and the Respondents' were all notified in mid-October of the intention to proceed with them and of the approximate cost. There has been no opposition registered with the Tribunal in respect of the Application and the Tribunal is satisfied, as indicated, that these works are such as to render it reasonable to dispense with the consultation requirements. Those requirements therefore are, by this decision, dispensed with. It should be stressed that, as indicated in the Directions, the dispensation of the consultation requirements does not preclude any of the Leaseholders from objecting to either the cost or standard of the works or raising other objections under Section 27A of the Act, should they wish to do so. This Order is in respect of the consultation requirements only.

Judge Shaw

5th December 2014