



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

Case Reference : **LON/00AQ/LDC/2143/0055**

Property : **Chichester Court, Whitechurch
Road, HA8 6NJ**

Applicant : **Medway Court Property Company
Limited**

Representative : **MLM Limited**

Respondents : **The long leaseholders of Chichester
Court**

Representative : **None**

Type of Application : **Dispensation from statutory
consultation (section 20ZA
Landlord and Tenant Act 1985)**

Tribunal Members : **Mr M Martynski (Tribunal Judge)
Miss M Krisko BSc (EstMan) BA
FRICS**

Date of Decision : **20 May 2014**

DECISION

Decision summary

1. The Tribunal decides that the statutory consultation requirements¹ are dispensed with in connection with the minimal localised temporary roof repairs set out in the report of Bob Cogram dated 21 February 2014.

Background

2. Chichester Court is a purpose-built block containing 18 flats. The block has three floors and two flat roofs with lift housing rooms on the larger roof.
3. According to the Applicant, in the summer of 2013 leaseholders were consulted regarding proposed internal and external elevation works. It was considered at that time that the roofs to the blocks would not need replacement.
4. It does appear however from the photographs of the roof seen by us that the roof was showing signs of wear and that it is apparent that repairs or replacement to the roof would be needed in the short to medium term.
5. The planned internal and window works were carried out and completed some time prior to the Winter of 2013/14. During that Winter and the following Spring, the roof to the block started to leak with water penetrating into the top floor.
6. The Applicant's managing agents obtained a report from Mr Bob Cogram of Blakeney Leigh Limited dated 21 February 2014 (received by the agents on 17 February) on the condition of the roof and the works required to it. In that report Mr Cogram states:-

There has been an unprecedented period of two months of heavy rainfall which has saturated the brickwork and affected and exaggerated previously minor defects.

We anticipate that a suitable roofing contractor could provide a reasonably satisfactory solution (without any form of guarantee), for the budget sum of £5750 plus any necessary plant for temporary perimeter protection and access for materials plus VAT(to cover labour and materials). Whilst we recognise that this is only a temporary, possibly partial, solution we feel that this relatively small expenditure may be able, in the short term, to provide the respite necessary to build up the appropriate fund for complete roof covering renewal.

This will also provide the opportunity for those areas affected by water penetration to dry out and allow redecoration after moisture levels have been reduced sufficiently.

¹Which are set out at Part 2, Schedule 4 to the Service Charges (Consultation Requirements) (England) Regulations 2003

7. Mr Cogram estimated the cost of patch repairs to be in the region of £5,750 plus VAT.
8. It was decided that patch repairs would be the best option allowing a reserve fund to be built up for the eventual replacement of the roof. It is not clear from the application as to why the reserve fund was not sufficient to cover, what appear to be, reasonably foreseeable problems with the roof.
9. The managing agents obtained two quotes for temporary repairs for £5,500 and £6,133 plus VAT.
10. The agents say that there have been two meetings with residents on site although no detail has been given as to when these meetings took place.
11. By letter dated 8 April 2014 the managing agents sent a letter to the leaseholders advising them of the issues with the roof and telling them that quotes for the works had been obtained.
12. It is not clear why the leaseholders were not consulted sooner. Nor is it clear why the consultation process was not started immediately following the receipt of Mr Cogram's report. Had it been started then, it could have been completed by mid to late May 2014.
13. The application for dispensation was received by the Tribunal on 10 April 2014. Directions were given by the Tribunal for the preparation of the application on 17 April 2014. The application was set down to be decided on the papers alone. No party requested a hearing of the application.
14. Five leaseholders responded to the application and indicated their support for it. No leaseholder opposed the application.

Decision

15. Given that:-
 - (a) There has been some consultation with leaseholders
 - (b) The works need to be carried out urgently
 - (c) No leaseholder has objected to the application
 - (d) There is no evidence or suggestion of any prejudice having been caused to any leaseholder by the lack of full statutory consultation;

The Tribunal finds that it is reasonable to dispense with the statutory consultation regulations in respect of the works described in paragraph 1 above.

Leaseholders' further rights

16. Nothing in this decision affects the leaseholders' right to apply to the tribunal to challenge the reasonableness, quality and costs of works in question once completed.

Mark Martynski, Tribunal Judge
20 May 2014