



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

Case Reference : CHI/43UL/LDC/2015/0012

Property : Kings Gate, Kings Road, Godalming,
Surrey GU7 3EY

Applicant : Retirement Lease Housing Association

Representative : In house managing agent

Respondent : The 11 lessees of Kings Gate, Kings Road,
Godalming, Surrey GU7 3EY

Representative : None

Type of Application : Dispensation of all or any of the
consultation requirements provided for by
section 20 of the Landlord and Tenant Act
1985

Tribunal Members : Judge M Loveday (Chairman)
P Turner-Powell FRICS

Date and venue : Determination without a hearing

Date of Decision : 5 June 2015

DECISION

1. This matter relates to leases of 11 retirement flats at Kings Gate, Kings Road, Godalming, Surrey GU7 3EY. By an application dated 23 January 2015, the Applicant landlord applied under section 20ZA of the Landlord and Tenant Act 1985 for dispensation of all or any of the consultation requirements relating to major works. On 9 March 2015 the Tribunal gave directions that the matter was to be dealt with on the papers without a hearing.
2. The Tribunal inspected the premises on 4 June 2015. The property comprises a two storey purpose built block of flats approx. 25 years old. Construction is in brick walls under a pitched and tiled roof. There are uPvc gutters, soffits, fascias and window frames. On the day of inspection, a number of elevations were scaffolded, and it was clear that the gutters, soffits and fascias (the subject of this application) had only recently been replaced.
3. The application stated that the previous gutters, soffits and fascias had deteriorated to such an extent that they presented a danger to the residents. In its (undated) Statement of Case, the Applicant further explained that it had become apparent during a routine estate visit in November 2014 that the existing timber soffits and fascias would need replacement. It had been hoped to leave this work until the Spring. In the meantime, the Applicant obtained estimates to replace the fascias soffits and gutters with uPvc fittings. The Applicant produced quotations for the work from DPS Denne Ltd dated 7 November 2014 (£15,870 + VAT) and CJ Uden & Co (£16,325.25 + VAT) dated 18 December 2014.
4. However, by January 2015 the condition had deteriorated rapidly, and a length of fascia fell from the building. The works had therefore become urgent. On 21 January 2015, the Applicant wrote to each lessee, informing them that in view of the risk to residents, the Applicant intended to start the work without full consultation. It summarised the two estimates which had been obtained the year before. The letter also invited any lessee who had queries to get in touch with the Applicant's Area Manager or Technical officer – and it gave contact telephone and email details for both. The letter enclosed a consent form which gave the lessees the opportunity to “agree not to be consulted in accordance with section 20” of the Act and to agree “not to challenge” the Applicant in future in regards to the cost of the works. The two estimates were then made available for inspection by the lessees at the offices of the Applicant.
5. The works were ordered from DPS Deane and were scheduled to start on 15 April 2015. As stated above, it was clear that the works were completed shortly before 4 June 2015. The Applicant also provided copies of its consent forms completed by the lessees of flats 1, 2, 5, 9, 10 and 11. The lessee of Flat 10 had (through her Power of Attorney) further completed the Tribunal's own form, saying she also supported the application to dispense.

6. The Tribunal is satisfied that it is reasonable to dispense with the consultation requirements. This is for the following reasons:
 - (a) The collapse of part of the fascia indicated that in January 2015 the works were urgent. They were a danger to the lessees, who were vulnerable retired persons.
 - (b) It was therefore reasonable for the Applicant not to delay the works to enable a full consultation to take place in accordance with Pt.2 of Sch.4 to the Service Charges (Consultation Requirements) (England) Regulations 2003.
 - (c) The Applicant's letter of 21 January 2015 substantially mitigated any prejudice to the lessees. It gave outline details of the works, the proposed cost and the reasons for urgency. It also gave contact details for the Applicant's Area Manager and Technical Officer. The letter did not comply with all the requirements for a Notice of Intention or a "paragraph (b) statement" in paras 1 and 4 of Pt.2 to Sch 4, but the letter gave the lessees an opportunity to consider the proposed works and comment on them. In the light of the urgency of the works, that opportunity was a reasonable one.
 - (d) The Applicant also mitigated any prejudice to the lessees by obtaining two separate estimates for the works and picking the lowest tender.
 - (e) A majority of the lessees have agreed to dispense with the consultation process.
 - (f) Once the landlord became aware that urgent works were required, it acted promptly in making the present application to the Tribunal.

7. Under s.20ZA of the Act, the Tribunal therefore dispenses with the consultation requirements in Pt.2 of Sch.4 to the Service Charges (Consultation Requirements) (England) Regulations 2003. This determination relates solely to the works to replace the soffits, fascias and gutters set out in the estimate from DPS Denne Ltd dated 7 November 2014.

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Judge MA Loveday (Chairman)

5 June 2015

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.