



**First-tier Tribunal
Property Chamber
(Residential Property)**

Case reference	:	CAM/38UC/LDC/2017/0018
Property	:	Charles Ponsonby House, 21 Osberton Road, Oxford, OX2 7PQ
Applicant	:	Hanover Housing Association
Respondents	:	The Respondent long leaseholders named in the application
Date of Application	:	25th October 2017 (rec'd 27th)
Type of Application	:	Application to dispense with consultation requirements in respect of qualifying work to the heating system (Section 20ZA Landlord and Tenant Act 1985 ("the 1985 Act"))
Tribunal	:	Bruce Edgington (lawyer chair) David Brown FRICS

DECISION

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1. The Application is dismissed.

Reasons

Introduction

2. The property is said to be a purpose built retirement housing complex of 34 flats with the heating system coming from 3 Keston C55 boilers which worked in rotation. In early 2017, one of the boilers failed but the necessary parts were no longer available. Advice was being sought from the Applicant's Mechanical and Electrical Manager about long terms solutions when, at the end of September 2017, another boiler failed.
3. The 3rd boiler was still working but as winter was approaching and some of the residents are vulnerable, the Applicant felt that it could not risk the last boiler breaking down and served the first section 20 notice for an anticipated consultation in respect of the renewal of the boilers. This application was made seeking dispensation from the remaining consultation requirements.

4. In a directions order dated 27th October 2017, it was said that this case would be dealt with on the papers on or after 17th November 2017 taking into account any written representations made by the parties. It was made clear that if any party wanted an oral hearing, then that would be arranged. No request for a hearing was received and there have been no representations from the Respondents.
5. In preparation for the determination, the Applicant was ordered to send all Respondents (a) a copy of the application (b) a copy of the directions order and (c) a short statement setting out a history of what has happened annexing copies of quotations for the anticipated work. Evidence that this direction had been complied with was ordered to be filed by 7th November 2017 together with stamped addressed envelopes for the Tribunal to send the decision to the Respondents.
6. Any Respondent wishing to make representations was ordered to file and serve these by 10th November and the Applicant was then ordered to file bundles for the determination by the 14th November.
7. Since the application was made and received on the 27th October, and the directions order was urgently prepared and sent to the Applicant on that day, the Tribunal has not heard anything from anyone. So far as can be ascertained, none of the directions has been complied with.

The Law

8. Section 20 of the 1985 Act limits the amount which lessees can be charged for major works unless the consultation requirements have been either complied with, or dispensed with by a leasehold valuation tribunal (now called a First-tier Tribunal, Property Chamber). The detailed consultation requirements are set out in Schedule 4, Part 2 to the **Service Charges (Consultation Requirements) (England) Regulations 2003**. These require a Notice of Intention, facility for inspection of documents, a duty to have regard to tenants' observations, followed by a detailed preparation of the landlord's proposals.
9. The landlord's proposals, which should include the observations of tenants, and the amount of the estimated expenditure, then have to be given in writing to each tenant and to any recognised tenant's association. Again there is a duty to have regard to observations in relation to the proposals, to seek estimates from any contractor nominated by or on behalf of tenants and the landlord must give its response to those observations.
10. Section 20ZA of the Act allows this Tribunal to make a determination to dispense with the consultation requirements if it is satisfied that it is reasonable.

Conclusions

11. As the Tribunal has (a) no statement setting out a history of this case so that a determination can be made about whether any prejudice has been or would be likely to be suffered by the Respondents if dispensation were granted and (b) no evidence that the Respondents have in fact been served with anything, the Tribunal finds that it does

not have the information or evidence to establish whether the application can or should be granted.

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Bruce Edgington
Regional Judge
20th November 2017

ANNEX - RIGHTS OF APPEAL

- i. If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber) then a written application for permission must be made to the First-tier Tribunal at the Regional office which has been dealing with the case.
- ii. The application for permission to appeal must arrive at the Regional office within 28 days after the Tribunal sends written reasons for the decision to the person making the application.
- iii. If the application is not made within the 28 day time limit, such application must include a request for an extension of time and the reason for not complying with the 28 day time limit; the Tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed despite not being within the time limit.
- iv. The application for permission to appeal must identify the decision of the Tribunal to which it relates (i.e. give the date, the property and the case number), state the grounds of appeal, and state the result the party making the application is seeking.