



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

Case reference : **LON/00AW/LDC/2019/0170**

Property : **Heathview Court, 29 Corringway,
London, NW11 7EF**

Applicant : **Heathview Court (Corringway)
Management Company Limited**

Representative : **Katerina Kaplanova
Warwick Estates**

Respondent : **Various Leaseholders, see Annexe
to the application form**

Representative : **-**

Type of application : **Under section 20ZA of the
Landlord and Tenant Act 1985 ('the
Act') for dispensation from the
consultation requirements in
respect of qualifying works**

Tribunal members : **Mrs A J Rawlence MRICS**

Date of decision : **29 October 2019**

DECISION

DETERMINATION

The Tribunal grants dispensation from the consultation requirements contained in section 20 of the Act and the associated Regulations in respect of the qualifying works, the subject of the Application.

Reasons for the Tribunal's determination

Introduction

1. On 23 September 2019 Heathview Court (Corringway) Management Company Limited ('the **Applicant**') applied to the Tribunal ('the **Application**') for an order under section 20ZA of the Act dispensing with the consultation requirements contained in section 20 of the Act and associated regulations in respect of Heathview Court, 20 Corringway, London NW11 7EF ('the **Property**'). The Respondents are the leaseholders of the 48 flats at the Property.
2. Section 20ZA (1) of the Act provides as follows:

'(1) Where an application is made to the appropriate 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 do so.'
3. The works the subject of the Application, which had been commenced at the date of the Application, involved replacement of emergency lights in the communal hallways at the Property and associated works. The Applicant stated that the reason for the lack of consultation was it became apparent during the works that additional lights required replacement. Further details are contained in the paragraphs containing the Applicant's submissions (see below).
4. The Applicant requested a paper track (i.e. on the basis of the written submissions of the parties).
5. Directions were issued by the Tribunal dated 2 October 2019.
6. The Tribunal proceeded to determine the Application without an inspection as information had been supplied by the Applicant.

The relevant lease provisions

7. The Tribunal was provided with a copy of the Lease for Flat 13, Heathview Court. It is assumed that the remaining leases are similar in all material respects. The Lease is dated 15 April 1996 and is made between Gable House Estates Limited (Freeholder), Heathview Court (Corringway) Management Company Limited (Company) and Fong Chin Wan and Fong Wong Yuen Pun

Gloria. In consideration of a premium and the payment of a service charge, the Lease grants the Property to the Tenant for a period of 999 years commencing on 25 December 1995.

8. Schedule 4 of the Lease states the Company's Covenants.

1. *"To keep the Common Parts with all erections and improvements which may hereafter be made all landlord's fixtures and fittings equipment and apparatus in a good state of repair and condition and if and when necessary replace rebuild and reinstate the same.*

5. *To provide keep clean maintain and when necessary replace any lamps for the illumination of the Common Parts..."*

9. The Tenant covenants to pay the service charge under the Third Schedule 1.1.1.

10. The mechanism for the payment of the service charge is found in Schedule 5.

The Applicant's submissions

11. The Applicant uses Warwick Estates to carry out the management of the Property.

12. A report had been received from Church Fire in May 2017 advising that 33 emergency lights in the communal hallways needed to be replaced. A quotation was given for £8,415.

13. In the summer of 2018 internal redecoration of the common parts was carried out following consultation with the Lessees. The Applicant asked the decorator to quote for the replacement of 33 lights which he did for a figure of £7,440. As this was cheaper than the other quotation received, the order was confirmed.

14. The total sum of £7,440 for the proposed replacement of the emergency lights was less than £250 per flat. However, when the electricians started the works, they found that a total of 61 lights needed replacement, as these did not pass the 3 hours test.

15. The Applicant confirmed the additional number of lights and took the view that it was expedient to carry out these additional works at the same time. This did not allow for the necessary consultation which should have taken place as the cost was now more than £250 per flat.

16. At the AGM in December 2018 the Applicant notified the Lessees that additional works had been carried out.

17. The application was made on 23 September 2019.

18. The Applicant confirmed to the Lessees on 2 October 2019 of the decision to carry out the additional works and sent them copy of the application form on 7 October as well as displaying the application on each notice board.
19. The Applicant stated that no consultation had been carried out at the time as this would have delayed the internal redecoration works.
20. The Tribunal notes that there has been one representation from a respondent who confirmed that the approach taken was reasonable and sensible once the electrician had advised that extra lights required replacement. No other representations have been received.

The Tribunal's Determination

21. The Tribunal was provided with convincing evidence that the additional works were required and that it was expedient to do so at the time
22. It is not the concern of the Tribunal, in any case, as to whether the cost was reasonably incurred. The Respondents retain the right to challenge the cost by making an application under section 27A of the Act at a later date. The question before the Tribunal is whether it is reasonable, in the circumstances of the case to dispense with the consultation requirements. The Tribunal therefore determines that it is just and equitable that dispensation is granted from the consultation requirements contained in section 20 of the Act and the associated regulations requested by the Application.
23. 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.
24. 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.
25. 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.
26. 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.

A J Rawlence MRICS – Chairman.
29 October 2019