



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

Case Reference : CHI/ 21UF/LDC/2020/0031

Property : Flats 1-8 Shirrel Court, Tower Close, Gosport
PO12 2TY

Applicants : The Trustees of the Locker Foundation

Representative : Proxim Property Management Limited

Respondent : Leaseholders named in the Schedule attached
to the Application

Representative : -

Type of Application : To dispense with the requirement to consult
Lessees about major works

**Tribunal
Member(s)** : Mr W H Gater FRICS MCI Arb
Regional Surveyor

**Date and Venue of
Hearing** : Paper determination

Date of Decision : 20 May 2020

DECISION

The Application

1. The Applicant seeks dispensation under Section 20ZA of the Landlord and Tenant Act 1985 from the consultation requirements imposed on the Landlord by Section 20 of the 1985 Act.
2. The Applicant explains that it wishes to seek dispensation from consultation in respect of the works to the roof of the property. The work is considered urgent because water is entering one of the flats, temporary repair has not been possible, and this is causing distress to the affected owner.
3. The Application for dispensation was received on 23 March 2020.
4. On 23 March 2020 the Tribunal issued directions and sent a copy of the application and directions to each Respondent.
5. Notwithstanding the directions requiring service by 4 May 2020, the Applicant served the Tribunal with a hearing bundle of documents on 28 April 2020. The Applicant confirmed that no objections had been received from any Respondent and that accordingly, it had not issued the bundle to any such party.
6. The Tribunal received responses from two Leaseholders, Mr Bradley and Ms Simon, both of whom agreed with the Application. Those who agreed or failed to respond to directions were removed as Respondents in this case.
7. The Tribunal determined the matter by paper hearing only.

Determination

8. The Tribunal found the following facts:
 - a) In the circumstances of the current public health crisis the Tribunal accepts late service of the bundle.
 - b) At the end of February 2020, the Leaseholder of Flat 8 reported water ingress into his flat, through the roof.
 - c) The contractor (Hawke Property Services) attending to assess the problem, reported that the central valley gutter was in a poor condition and the concrete tiles either side were cracked and slipped off rotten battens. There is a minimal depth to the valley gutter - approximately 2.5cm/1 inch - with an inadequate lap of felt to the underside of the roof. As the storms experienced over the two weekends gave a significantly higher than average rainfall, the central gutter was unable to cope.
 - d) Two contractor's estimates (copies enclosed) were subsequently received:

Hawkes Property Services
Durabalis

£7623 +vat
£8750 +vat

- e) In order to prevent further water damage within Flat 8, the lowest estimate submitted by Hawke Property Services was accepted on 5th March and a start date requested.
9. The Tribunal is satisfied from the facts found that the Applicant could not complete the consultation process because of the urgency of the repairs and that the steps taken by the Applicant to obtain two quotations minimised the risk of prejudice to the Leaseholders. The Tribunal also places weight on the facts that no Leaseholder objected to the application and two were in favour of it. The Applicant has effectively carried out a diligent process.
 10. The Tribunal decides to dispense with the consultation requirements final stage of the consultation process for the works specified because the Leaseholders would suffer no relevant prejudice.
 11. The Tribunal's decision is confined to the dispensation from the consultation requirements in respect of the qualifying works. The Tribunal has made no determination on whether the costs of those works are reasonable or payable. If a leaseholder wishes to challenge the reasonableness of those costs, then a separate application under section 27A of the Landlord and Tenant Act 1985 would have to be made.
 12. The Tribunal will send a copy of the decision to the Leaseholders who responded. The Tribunal asks the Applicant to inform the other Leaseholders of this decision by way of noticeboard or other forms of communication.

W H Gater FRICS ACI Arb
Regional Surveyor
20 May 2020

RIGHTS OF APPEAL

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.