



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

Case Reference : **LON/00AW/LDC/2020/0134
P:REMOTE**

Property : **Delahay House, 15 Chelsea
Embankment London SW3 4LA**

Applicant : **Delahay House Freehold Ltd**

Representative : **-**

Respondents : **The Lessees as named on the
application (1)**

Representative : **Not represented**

**Type of
Application** : **S20ZA Landlord and Tenant Act 1985**

Tribunal Member : **Judge F J Silverman MA LLM**

**Date of paper
consideration** : **10 November 2020**

Date of Decision : **10 November 2020**

DECISION

The Tribunal determines that it will exercise its discretion to dispense with the consultation requirements imposed by s.20 of the Landlord and Tenant Act 1985 on the grounds that all tenants were notified of the application under s20ZA and no objections were received.

REASONS

1. The Applicant seeks a determination of its application for dispensation from the consultation requirements imposed by s. 20 of the Landlord and Tenant Act 1985.
2. Two Applications to the Tribunal were made on 26 and 28 August 2020. They both concern the same property and are related to the same major project. They are therefore considered together and the Decision above relates to both.
3. Directions were issued by the Tribunal on 30 September 2020.
4. This matter was determined by a paper consideration P:REMOTE on 10 November 2020 at which the Tribunal considered the Applicant's application and accompanying documents.
5. The Directions issued by the Tribunal had been sent by the Applicant to all Respondents asking them to respond and to indicate whether or not they opposed the application. No objections were received by the Tribunal.
6. Delahay House (the property) comprises a converted building containing 12 flats over 6 floors including the basement. Following a failed electrical condition report in 2014 works to upgrade the power supply and systems, including replacement of the lift have been carried out in four phases. The commencement of phases 3 and 4 which were to be undertaken simultaneously was delayed because work had to be carried out to remove asbestos from the lift. The delay in commencing the final phases of the project led to the contractors revising their estimate upwards (an increase of £6,185 over the original sum). Since the revised estimate was still some £5,000 lower than the nearest competing quotation the Applicant decided to accept the higher figure and the works proceeded. However, the final cost which the Applicant seeks to recover from the Respondents is now stated to be £11,358 (inc VAT) over the original estimate ie a further increase of some £5,000 over and above the £6,185 of the revised estimate. The total cost of the phase 3 and 4 works is £83,320. Additionally the sum of £3,275 + VAT was incurred in relation to the removal of asbestos from the lift.

7. The Applicant therefore requests the Tribunal to grant a dispensation from compliance with the full requirements of the section in order to allow the recovery of that part of the fee relative to the works which went over budget amounting to £11,358 inc VAT and £3,275 +VAT for the asbestos removal.
8. The Tribunal was not asked to inspect the property and in the context of the issues before it did not consider that an inspection of the property would be either necessary or proportionate.
9. The Applicant as freeholder has a repairing obligation in respect of the structure, exterior and common parts of the premises (including mains services). An example of the leases under which the Respondents hold their respective properties is set out at page 82 of the bundle.
10. Notices of intention to carry out the proposed works were sent to the Respondent tenants on 26 July 2017, 29 August 2017, 5 January 2018 and 16 January 2020. The latest period by which lessees were to make their written observations expired on 18 February 2020. No objections were received.
11. The works have already been carried out.
12. The Tribunal is being asked to exercise its discretion under s.20ZA of the Act. The wording of s.20ZA is significant. Subs. (1) provides:

“Where an application is made to a [leasehold valuation] 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 dispense with the requirements*” (emphasis added).
13. The Tribunal understands that the purposes of the consultation requirements is to ensure that leaseholders are given the fullest possible opportunity to make observations about expenditure of money for which they will in part be liable.
14. Having considered the submissions made by the Applicant the Tribunal is satisfied that the additional works carried out appeared to be necessary and that no undue prejudice will be caused to or suffered by any tenant by the grant of dispensation under s20ZA.
15. This determination does not affect the tenants’ rights to apply to the Tribunal challenging the payability or reasonableness of the service charges.

Judge F J Silverman as Chairman

Date 10. November 2020

Note:
Appeals

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 by email to rplondon@justice.gov.uk.
2. The application must arrive at the Tribunal within 28 days after 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.