



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

Case Reference : CHI/00MS/LDC/2020/0081

Property : 3 & 5 Winn Road, Southampton SO17 1EH

Applicants : Sovereign Court Residents Association
(Southampton) Limited

Representative: Hammond Bale LLP

Respondent: The leaseholders

Representative: ---

Type of Application: Dispensation application - Section 20ZA Landlord
and Tenant Act 1985 ("the 1985 Act")

Tribunal Member: Judge P J Barber

Date of Decision: 5 February 2021

DECISION

© CROWN COPYRIGHT 2021

DECISION

- (1) The Tribunal determines in accordance with the provisions of Section 20ZA of the 1985 Act, to dispense with all the consultation requirements in relation to qualifying works at the Property, namely the repairs to the roof of the east block at the Property.

REASONS

Background

1. The application received by the Tribunal was dated 6 October 2020 and was for a determination whether to dispense with consultation requirements under Section 20 of the 1985 Act, in relation to roof works, including the erection of scaffolding.
2. Directions were issued on 23 November 2020, providing for the matter to be determined by way of a paper determination, rather than by an oral hearing, unless a party objected; no such objections have been made and accordingly, the matter is being determined on the papers.
3. The Applicants have provided an electronic bundle of documents to the Tribunal which included copies variously, of the application, a sample lease, the directions and a witness statement made for the Applicant, and various other documents.
4. Due to Covid 19 restrictions, no inspection was carried out in respect of the Property.

The Law

5. Section 20ZA(1) of the 1985 Act provides that :-

“(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 dispense with the requirements.

Written Representations

6. The directions issued in this matter required the Applicant to send a copy of the application and the directions to each of the leaseholders by 7 December 2020. The directions included a form for leaseholders to complete and return to the Tribunal by 23 December 2020, to indicate whether or not they opposed the application. The electronic bundle includes a witness statement at Page 38-39, made by Benjamin Warburton of the Applicant`s solicitors, to the effect that copies of the directions had been sent to each leaseholder in compliance with the directions, and that the Applicant has received written responses from the leaseholders of 13 of the flats, although no formal objections had been received.

7. The Applicant describes the Property as comprising two purpose-built blocks of 1 and 2- bedroom apartments, adding that in February 2020 it became apparent that there was a hole in the roof of the east-block. The Applicant states that urgent repairs were needed, to be undertaken from scaffolding, and involving removal of ridge tiles to allow a metre either side of the hole to be re-battened and re-felted. The Applicant added that once the tiles were removed, it became evident that more extensive work to the whole middle section of the east block roof was necessary to avoid serious water ingress, and the risk of rot and other damage to the properties below. The Applicant confirmed that the works were completed in July 2020, having been delayed due to a lack of supplies.

Consideration

8. The Tribunal, has taken into account all the case papers in the bundle.
9. The issue for determination under Section 20ZA of the 1985 Act, is simply as to whether or not it is satisfied that it is reasonable to dispense with all or any of the consultation requirements of Section 20 of the 1985 Act.
10. The Applicant describes how a hole had been discovered in the roof of the east block and that when tiles were removed, yet further urgent work was discovered as being necessary in order to prevent damp and water penetration occurring to the flats below. The Applicant was required to serve all the leaseholders with copies of the applications and the directions; whilst the directions allowed for any leaseholder who was opposed to the application, to make representations, none has been received. The Applicant advises in its statement of case that all the work has now been completed. The Tribunal notes the absence of objections to the application by any of the leaseholders, and takes into account the statement by the Applicant that the work was required for urgent reasons to prevent water ingress.
11. The Tribunal is satisfied that it would be reasonable to dispense with all consultation requirements in relation specifically to these roof works, given the absence of objections and apparent urgent need for such works, so as to prevent water ingress. The Tribunal accordingly determines that all the consultation requirements arising under Section 20 of the 1985 Act in relation to the roof works to the east block at the Property, are dispensed with.
12. In making this determination, the Tribunal makes it clear to the parties that it is concerned only with whether or not it is reasonable to dispense with statutory consultation requirements, and that such determination does not concern the separate issue as to whether any service charges arising will be reasonable or payable and which the leaseholders will remain entitled to challenge if they may be so minded, at the relevant time.

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.