



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

Case reference : **LON/00AR/LDC/2021/0224P**

Property : **Nayland Court, Market Place, Romford,
Essex RM1 3EF**

Applicant : **Market Place Romford Management
Company Limited**

Representative : **Gunnercooke LLP**

Respondent : **The leaseholders listed in the schedule
to the application**

Representative : **None**

Type of application : **An application under section 20ZA of the
Landlord & Tenant Act 1985 for
dispensation from consultation prior to
carrying out works**

Tribunal members : **Mr I B Holdsworth FRICS MCI Arb
Ms Jane Mann MCIEH**

**Date and venue of
Hearing** : **Remote hearing on 15th November 2021**

Date of decision : **16th November 2021**

DECISION

Decisions of the Tribunal

This has been a remote hearing on the papers which has been not objected to by the parties. A face-to-face hearing was not held because all issues could be determined on paper. The documents referred to in this Decision are in a submitted bundle of 135 pages, the contents of which are noted.

The tribunal determines that dispensation should be given from all the consultation requirements in respect of fire safety works (‘the fire safety works’) at Nayland Court, Market Place, Romford, Essex RM1 3E (‘the property’) required under s.20ZA of the Landlord & Tenant Act 1985 (‘the 1985 Act’) for the reasons set-out below.

The estimated maximum cost of the proposed fire safety works is £77,540.40 inclusive of VAT. No tender price for the works is provided by the applicant.

The application

- 1 The application seeks a determination pursuant to s.20ZA of the Landlord & Tenant Act 1985 (‘the 1985 Act’) to dispense with the statutory consultation requirements associated with fire safety works necessary to remedy defects identified following a fire risk assessment undertaken in accordance with the Regulatory Reform (Fire Safety Order) 2005 Multi-occupied Building Guidance.
- 2 An application was received by the First-tier Tribunal dated 24th August 2021, seeking dispensation from the consultation requirements. Directions were issued on 30th September 2021 to the applicant. These Directions required the applicant to advise all respondents of the application and provide them with details of the proposed works and services.
- 3 The relevant legal provisions are set-out in the Appendix to this Decision.

Submitted information

- 4 This matter was determined by written submissions. The Applicant submitted a bundle of documents which included: -
 - a. A copy of the application [page A1-A20 of the bundle];
 - b. A specimen lease for the flats [page A21- A67];
 - c. copy of tribunal directions issued 30th September 2021 [page B1-B7];
 - d. copy of a letter prepared by MarketPlace Romford Management Company (MANCO) Limited dated 12th July 2021 which was distributed to all tenants. [page C1 -C16];
 - e. A specimen copy of the underlease lease [page D1- D45];

The background

- 5 The property which is the subject of this application is Nayland Court Market Place Romford. This consists of 91 purpose built flats arranged in a four storey block built above a 2 storey retail and office complex.
- 6 In April 2021 Firemain UK Limited carried out a fire risk assessment of the building. They identified the need to carryout the following works to satisfy the recently revised Fire Regulations, these include:
 - the labelling of all fire doors;
 - securing of lose or damaged door frames:
 - the fitting of secure door seals;
 - the supply and fitting of appropriate door hinges and closures;
 - the checking of all locks and latches to ensure they are secure; and
 - the fitting of appropriate fire retardant and intumescent seals to letterboxes and any architrave gaps.
- 7 The estimated cost of this work is £77,540.40. This sum includes a provisional sum for the removal and replacement of damaged door architraves of £31,636.80.
- 8 The cost estimate is submitted with the tribunal application and contained in the letter to tenants dated 12th July 2021. The cost estimate is provided by Firemain UK Limited. No works schedule or detailed quote is included in the bundle.
- 9 The management company, MANCO sought the permission of the tenants to seek dispensation from the S20 consultation. They contend that the cost of carrying out the works will increase should there be any delay in instructing a contractor to carry them out. They argue the time taken to follow the statutory consultation requirements would cause several months delay in commissioning the work. MANCO anticipate the cost of the fire safety works to increase in the short term because of building material shortages and contractor labour costs.
- 10 MANCO emphasise in their application that the timber frame construction of the flats heightens the fire risk and the urgency of the works.
- 11 Seven responses were received from the consultation letter sent to all leaseholders. All the responses are supportive of seeking a dispensation from consultation. Estuary Housing Association who are leaseholders of 10 flats within the property expressed no objection to the application. No tenant in the property objected to the proposal to seek a dispensation from statutory consultation.
- 12 A copy of a specimen lease for each flat is supplied. After review, the tribunal are content the costs of carrying out the fire safety works to the property are chargeable to the leaseholders.

Appendix of relevant legislation

Section 20 of the Act

- (1) Where this section applies to any qualifying works or qualifying long term agreement, the relevant contributions of tenants are limited in accordance with subsection (6) or (7) (or both) unless the consultation requirements have been either: -
 - (a) complied with in relation to the works or agreement; or
 - (b) dispensed with in relation to the works or agreement by (or on appeal from) a leasehold valuation tribunal.
- (2) In this section “relevant contribution”, in relation to a tenant and any works or agreement, is the amount which he may be required under the terms of his lease to contribute (by the payment of service charges) to relevant costs incurred on carrying out the works or under the agreement.
- (3) This section applies to qualifying works if relevant costs incurred on carrying out the works exceed an appropriate amount.
- (4) The Secretary of State may by regulations provide that this section applies to a qualifying long-term agreement: -
 - (a) if relevant costs incurred under the agreement exceed an appropriate amount, or
 - (b) if relevant costs incurred under the agreement during a period prescribed by the regulations exceed an appropriate amount.
- (5) An appropriate amount is an amount set by regulations made by the Secretary of State; and the regulations may make provision for either or both of the following to be an appropriate amount: -
 - (a) an amount prescribed by, or determined in accordance with, the regulations, and
 - (b) an amount which results in the relevant contribution of any one or more tenants being an amount prescribed by, or determined in accordance with, the regulations.
- (6) Where an appropriate amount is set by virtue of paragraph (a) of subsection (5), the amount of the relevant costs incurred on carrying out the works or under the agreement which may be taken into account in determining the relevant contributions of tenants is limited to the appropriate amount.
- (7) Where an appropriate amount is set by virtue of paragraph (b) of that subsection, the amount of the relevant contribution of the tenant, or each of the tenants, whose relevant contribution would otherwise

exceed the amount prescribed by, or determined in accordance with, the regulations is limited to the amount so prescribed or determined.

Rights of appeal

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the tribunal is required to notify the parties about any right of appeal they may have.

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.

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.

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.

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.

If the tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).