



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

Case Reference	:	CAM/26UJ/LDC/2014/0012
Property	:	Flats 1 – 22 Penn House, Oxhey Drive, South Oxhey Hertfordshire WD19 7HW
Applicant	:	Thrive Homes Housing Association
Representative	:	Mr J Sutherland-Young, Home Ownership Manager; Ms Shereen Hafeez Home Ownership Officer; Mr M Gray Health and Safety Manager all with the Applicant
Respondents	:	Miss J Groves (flat 2) Mr I Nishevci (flat 7) Mr K May (flat 19)
Representative	:	None
Type of Application	:	Permission for dispensation from the consultation requirements under s20 of the Landlord and Tenant Act 1985 (the Act) (S20ZA of the Act)
Tribunal Members	:	Tribunal Judge Andrew Dutton Mrs H C Bowers MRICS
Date and venue of Hearing	:	Watford Tribunal Service, Clarendon Road, Watford on 30th May 2014
Date of Decision	:	4th June 2014

DECISION

DECISION

The Tribunal determines that pursuant to Section 20ZA of the Landlord and Tenant Act 1985 dispensation should be granted for the reasons set out below.

REASONS

1. An application was made by Thrive Homes Housing Association, the Applicant on 1st April 2014 seeking dispensation from the consultation requirements contained in section 20 of the Act and the Service Charge (Consultation Requirements) (England) Regulations 2003. The application made pursuant to the provisions of s20ZA of the Act related to floor covering works to the communal areas of the property at Penn House, Oxhey Drive, South Oxhey (the Property). The Property comprised a three storey block, with three entrances. There are, in total, five such blocks on the estate. They are basic in design, being rectangular brick built and separated from each other by an area of grass.
2. All three leaseholders, the remaining residents being occupiers under assured tenancies it seems directly with the Applicant, were written to in March this year informing each of them that the works were contemplated. The reason stated at the commencement of each letter was *"to ensure the health and safety of our residents (and any visitors) to Penn House, Thrive Homes will be carrying out urgent renewal works to the internal communal flooring at 1 – 22 Penn House. The works will include the installation of non-slip flooring."* The letter went on to briefly explain the provisions of section 20 of the Act and that they would be seeking dispensation from the consultation requirements, on a retrospective basis. It gave details of two estimates, one from Porterhouse Limited at a cost of £955.13 for each leaseholder and the other from KPC Building Services at a cost of £1,118.23 for each leaseholder.
3. Directions were issued on 3rd April 2014, which provided for an inspection and a hearing on 30th May 2104. We received a bundle prepared by the Applicant containing the application, directions, a statement from Mr Sutherland-Young, the leaseholders' leases, the initial letters dated early March 2014 and correspondence relating to the quotes and the need to carry out the work.

INSPECTION

4. On the morning of the 30th May 2014 we were able to inspect the common parts of Penn House in the company of Ms Hafeez and Mr Sutherland-Young and Mr Gray. No leaseholders attended the inspection, nor indeed the hearing
5. We inspected the three entrances and stairs to the upper floors and noted that they had been covered with non-slip flooring, that the front edge of the stairs had been coated as had the skirting to the wall.
6. We were also able to inspect an entrance and stairs at 17 – 22 Offerton House, which showed the flooring in its original condition.

HEARING

7. Mr Sutherland-Young, Ms Hafeez and Mr Gray attended the hearing. We had a statement from Mr Sutherland-Young, which we had read in advance. We were told that all three leaseholders, the Respondents in this case, had made telephone contact with Ms Hafeez and that none had raised any issue and certainly not indicated that they considered they were prejudiced by the non-consultation. Apparently they have been offered a three year, interest free, payment plan.
8. The reason for the urgency in respect of the works for this particular block was that there had been a fall by a resident, which had led to a claim. In addition a cleaning contractor had slipped. Both incidents had happened this year. Mr Gray, the Health and Safety Manager considered the entrance and stairs a 'work place' and that it was necessary not only to safeguard the residents but contractors, such as cleaners and postal workers who visit regularly. He said that a programme was in place to re-floor all the blocks but lack of funds had prevented this. He considered that in the light of the fall and claim this block should be dealt with in case there were insurance problems in the future. Apparently the budget for the forthcoming year will allow the other blocks to be attended to, but they will be the subject of consultation.
9. There are, we were told, other leaseholders in the other blocks and that they make about 20% of the total number of residents, the remainder being tenants of the Applicant.

FINDINGS

10. Having inspected the three entrances and stairs in the Property and seen the original flooring in Offerton House and noted all that was said in the papers before us and at the hearing we agree that dispensation should be given under the provisions of s20ZA. The occurrence of a fall this year, following which a claim is being made indicates to us that the works are required. The estimate had been obtained from Porterhouse Limited, which was the lower of two such estimates. No leaseholder raised any suggestion that granting dispensation would prejudice them. Further, the bulk of the cost will fall on the Applicant who would necessarily wish to obtain the best estimate for the works.
11. Dispensation is granted in respect of the works set out in the emailed estimate from Porterhouse Limited dated 14th February 2014 at a price of £5,571.60 plus VAT per entrance and stairs. No claim was made by the Applicant for reimbursement of the fees paid to the Tribunal or for the costs of the proceedings to be recoverable as a service charge.
12. For the avoidance of doubt the granting of dispensation does not remove the leaseholders' rights to challenge the costs and/or the standard of works under the provisions of s27A of the Act.
13. The law applicable to the matter is attached.

Relevant Law
Section 20

- (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.