



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

Case Reference : **LON/00AY/LDC/2014/0043**

Property : **County Hall Apartments, Chicheley Street, London SE1 7PJ**

Applicant : **County Hall Management Company (N&S) Limited**

Representative : **Rendall & Rittner Limited**

Respondent : **The long leaseholders of the residential flats whose names are set out in the application form**

Representative :

Type of Application : **for dispensation from statutory consultation requirements**

Tribunal Members : **Judge Dickie
Mrs H Bowers, MRICS**

Date and venue of Hearing : **7 May 2014, 10 Alfred Place,
London WC1E 7LR**

Date of Decision : **7 May 2014**

DECISION

Decision of the tribunal

The tribunal grants the application for dispensation from further statutory consultation in respect of the subject works.

The application

1. The applicant management company seeks a determination pursuant to section 20ZA of the Landlord and Tenant Act 1985 ("The Act") dispensing with statutory consultation in respect of major works.
2. The premises in question comprise two blocks of 427 apartments in total with commercial units on the ground floor, being the converted GLC County Hall buildings along the South Bank.
3. Directions were issued by the tribunal on 26 March 2014 listing the matter for a hearing on 7 May 2014, and a copy of the application and directions were served on each of the Respondent leaseholders.
4. The application seeks dispensation in respect of additional fire defect rectification works at the two blocks, identified during an ongoing fire protection improvement project. These additional works are now underway.
5. The hearing was attended by Miss R Sanchez and Mr L Brown, of Rendall & Rittner Ltd. and Mr P Smith of Smith-Baxter surveyors. A summary follows of the relevant facts relating to the application that were before the tribunal.
6. The original scheme of works was the subject of full statutory consultation. The works originally consulted upon in 2011 were as follows:
 - (i) Removal of ceilings and walls as necessary to access the ducts and smoke ventilation system
 - (ii) Introduction of new fire stopping to voids in service ducts, to ensure compartmentation is achieved at each floor level.
 - (iii) Re-arrangement of ducting and replacement of fans to ensure an effective smoke ventilation system is created in all stair lobbies.
 - (iv) Reinstatement and making good to the areas disturbed on completion of the works.
7. The estimated cost for the original scheme of works was just over £2 million, including VAT, fees and a contingency, and they commenced in

May 2012 on a 25 month contract for their completion. In previous proceedings before the Leasehold Valuation Tribunal, case reference LON/00AY/LSC/2010/0832, the tribunal found that the costs of the original works can be recovered from the Respondents and that it was reasonable for the Applicant to undertake the works.

8. The additional works include fire compartmentalisation of floor voids in the two blocks, installation of new dampers to ductwork in the basement at the bottom of staircase 6, the repair of the suspended timber floor and supply and fitting of a new door in the cleaner's storeroom in staircase 4, the supply and fitting of a new fire door and architraves in the basement at the bottom of staircase 6, signage at the bottom of staircase 2, fire stopping to corridors outside flats 192, 193, 195 and 196 South block and the installation of new dampers to ductwork in core 4. The tribunal was advised that there was no contingency remaining to cover the cost of these additional works.
9. The need for the additional works came to light as a result of intrusive investigations while the original works were underway, and it is the Applicant's position that they could not reasonably have been identified within the original specification. The appointed surveyors, Smith-Baxter, advised that these further works concerning fire safety of the two blocks are urgent. Tenders were obtained and a tender analysis prepared in February 2014. The lowest tenders were from the existing contractors already on site (Woodgrove for the building and fire protection work and Air Vent for the smoke ventilation works). Being associated with the original works, the Applicant considered appropriate that they be carried out by the same contractor already on site in order to reduce costs.
10. A notice of intention date 14 March 2014 has been issued to the leaseholders in respect of the additional works, including an invitation to nominate contractors, and a generic copy was produced to the tribunal. Observations were due by 17 April 2014.
11. A number of concerns have been raised by 13 leaseholders in response to the notice of intention and / or receipt of the application and directions of the tribunal. These concerns can be summarised as falling into three categories: A belief that the developer, contractor or engineer should contribute to their cost; questions about how the contingency has been spent and the cost of the additional works calculated; dissatisfaction that the need for this work was not picked up earlier.

Determination

12. Section 20ZA(1) of the Act 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.”

13. The tribunal has taken into account the decision in *Daejan Investments Ltd v Benson and others* [2013] UKSC 14.
14. There has been no suggestion from any Respondent that the work is not necessary and / or ought to have been the subject of full statutory consultation. The concerns raised in fact relate to whether the costs are payable by the Respondents and whether they are reasonable (including having been reasonably incurred). The question of the recoverability of the cost of the original scheme of works has already been determined by a tribunal on an application by the management company. The reasonableness of the cost of the whole scheme of works, including the expenditure on contingencies, is a matter that would fall within the jurisdiction of this tribunal on an application under section 27A of the Act.
15. There is sufficient evidence before the tribunal of the necessity to carry out the work urgently, and that it was prudent to contract the works without a full consultation process. The tribunal is satisfied that delaying the works for such consultation would have been undesirable. No evidence has been put forward of prejudice to the tenants or other grounds on which the tribunal ought to consider refusing the application or granting it on terms.
16. In all the circumstances the tribunal grants the application for dispensation from statutory consultation in respect of the works, considering it reasonable to do so.
17. This decision does not affect the tribunal’s jurisdiction upon an application to make a determination under section 27A of the Act in respect of the reasonable cost of the work.

Name: F Dickie

Date: 7 May 2014