



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

Case reference : **LON/00AG/LDC/2015/0008**

Property : **158 Prince of Wales Road, London
NW5 3PS**

Applicant : **Sammut Limited**

Respondents : **Various leaseholders as per the
application**

Type of application : **To dispense with the requirement
to consult leaseholders about
major works**

Tribunal members : **Judge P Korn
Mr P Roberts Dip Arch RIBA
Mr L Packer**

Date of decision : **23rd February 2015**

DECISION

Decision of the tribunal

- (1) The tribunal dispenses with those of the consultation requirements not complied with by the Applicant in respect of the qualifying works which are the subject of this application.
- (2) No cost applications have been made.

The application

1. The Applicant seeks dispensation under section 20ZA of the Landlord and Tenant Act 1985 (“**the 1985 Act**”) from the consultation requirements imposed on the landlord by section 20 of the 1985 Act in relation to certain qualifying works.
2. The qualifying works which are the subject of this application comprise the replacement of a defective water pump at the Property.

Paper determination

3. In its application the Applicant stated that it would be content with a paper determination if the tribunal considered it appropriate. In its directions dated 26th January 2015 the tribunal agreed that the matter was suitable to be heard without an oral hearing, and none of the Respondents has requested an oral hearing.

Applicant’s case

4. The Applicant’s managing agents state in their application for dispensation that the replacement of the pump is essential to the functioning of water distribution and that whilst the water is directly fed off the mains there is a possibility that insufficient water will be supplied to the top flats. The section 20 consultation process has not been gone through due to the urgency of the situation but leaseholders are aware of the problem.
5. The Applicant’s managing agents have provided a copy email dated 24th October 2014 from a Mr Paul Davis complaining that there was no water in his flat and an email response to Mr Davis that same day (also copied to others) from Mr Daniel Milano on behalf of the managing agents stating that the whole building was without water and confirming that a technician had been in to assess the problem and had concluded that the pump was broken. There is also other email correspondence showing that the managing agents were dealing with the issue. In an email also dated 24th October 2014 Hannan Ennassri for the managing agents stated that the water was back on and that a new pump was being ordered.

6. The managing agents had previously been intending to replace the pump anyway, and to this end had already obtained two quotations, one for £3,580.19 + VAT and the other for £2,861.00 + VAT, but at that stage the issue was seemingly not considered to be urgent.
7. As a result of the failure of the pump the managing agents took the view that replacing the pump was now urgent and they decided to go with the lower of the two quotations and arrange for the works to be done without first going through a process of formal consultation with leaseholders.
8. In a letter dated 4th February 2015 Ms Ennassri of Metrus Property Advisors on behalf of the Applicant stated that, as required by the tribunal's directions, all residents (presumably meaning all leaseholders) had been provided with a copy of the application and of the tribunal's directions. In addition, as required by the directions, a copy of the application form and of the directions had been displayed in a prominent position in the common parts of the Property.

Responses from the Respondents

9. The tribunal has received no responses from any of the Respondents.

The relevant legal provisions

10. Under Section 20(1) of the 1985 Act, in relation to any qualifying works *"the relevant contributions of tenants are limited ... unless the consultation requirements have been either (a) complied with ... or (b) dispensed with ... by ... the appropriate tribunal"*.
11. Under Section 20ZA(1) of the 1985 Act *"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..., the tribunal may make the determination if satisfied that it is reasonable to dispense with the requirements"*.

Tribunal's analysis

12. The tribunal notes the circumstances in which the application for dispensation has been made. Based on the evidence supplied by the Applicant, which has not been contradicted by any of the Respondents, the tribunal concludes that there is a large degree of urgency in relation to the carrying out of these works.
13. None of the Respondents has raised any concerns with the tribunal nor opposed the application for dispensation.

14. On the basis of the evidence provided and submissions received, the Tribunal is satisfied that it is reasonable to dispense with the consultation requirements. The evidence indicates that the works are urgent, and the application has not itself been opposed by any of the Respondents. The Applicant acted swiftly to address the problem once it became apparent that it was urgent, and it has kept leaseholders informed as to progress.

15. For the avoidance of doubt, this determination is confined to the issue of consultation and does not constitute a decision on the reasonableness of the cost of the works.

Name: Judge P Korn

Date: 23rd February 2015