1158)

FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case reference	:	**LON/00AH/LDC/2015/0139**
Property	:	**Sheridan Court, 99 Coombe Road, Croydon CR0 5SP**
Applicant	:	**Sheridan Court (Coombe Road) Limited**
Representative	:	**HML Andertons – managing agents**
Respondent	:	**The leaseholders as set out on the schedule attached to the Application (Flats 11 - 21)**
Representative	:	**Not known**
Type of application	:	**To dispense with the requirement to consult lessees (s20ZA Landlord and Tenant Act 1985)**
Tribunal members	:	**Tribunal Judge Dutton** **Mr M Cairns MCIEH**
Date of decision	:	**30th March 2016**
	:	

DECISION

DECISION

We determine that dispensation should be given from all or part of the consultation requirements required under s20 of the Landlord and Tenant Act 1985 (the Act) for the reasons set out below.

Background

1. The applicant seeks dispensation under section 20ZA of the Act from all/some of the consultation requirements imposed on the landlord by section 20 of the 1985 Act[1]. The application is dated 12th November 2015

2. The application states that the lift in the block housing flats 11 to 21 had stopped serving the second and fourth floor. An inspection revealed that a new control panel was required. The block's occupiers include elderly people as well as a mother's with babies.

3. Directions were first issued on 25th November 2015 but it seems were not received by the managing agents. A second set of directions were issued dated 2nd February 2016 indicating that the matter would be considered as a paper determination in the week commencing 21st March 2016. In the meantime a number of leaseholders had responded indicating that they did not object to the application.

4. A bundle of relevant papers were lodged on behalf of the Applicant by its managing agents HML Andertons. This included a short statement indicating that the directors of the Applicant Company, following consultation with leaseholders, agreed that the works were required as a matter of urgency and that the consultation process should be dispensed with. The statement went on to explain the circumstances in which it first became apparent the works were required and explained the delay in dealing with the matter. This information, it appears, was supplied to the leaseholders in April 2015. The bundle also included the quote from Elevators Limited in the sum of £12,991 plus VAT together with an optional extra to replace the existing door operator at a cost of £2,130 plus VAT. The matter came before us for consideration as a paper determination on 30th March 2016.

5. The only issue for us to consider is whether or not it is reasonable to dispense with the statutory consultation requirements. This application does not concern the issue of whether any service charge costs are reasonable or payable.

THE LAW (SEE BELOW)

[1] **See Service Charges (Consultation Requirements) (England) Regulations 2003 (SI2003/1987) Schedule 4**

DECISION

6. We have considered the papers lodged by HML Andertons on behalf of the Applicant and the directions issued by this Tribunal. There is no objection raised by the Respondents, either together or singularly, indeed 5 leaseholders appear to support the application. It seems clear from the papers that these works were required urgently. The Applicant has proceeded and the works have been concluded.

7. We are satisfied that it is appropriate to dispense with the consultation requirements in this case. Our decision does not affect the right of the Respondents to challenge the costs or the standard of work should they so wish.

Andrew Dutton

Tribunal Judge

Andrew Dutton 30th March 2016

The relevant law

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).