



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

Case reference : **LON/OOAH/LDC/2018/0124**

Property : **17A Swain Road, Thornton Heath,
Surrey CR7 7AP**

Applicant : **Treetops Court RM Company
Limited**

Representative : **CEC PM Limited, managing agents**

Respondent : **The various leaseholders at the
Property details of which are
appended to the Application**

Representative : **Not known**

Type of application : **To dispense with the requirement
to consult lessees (s20ZA Landlord
and Tenant Act 1985)**

Tribunal member : **Tribunal Judge Dutton**

Date of decision : **3rd September 2018**

:

DECISION

DECISION

The Tribunal determines that dispensation should be given from some of the consultation requirements in respect of works (as set out below) to 17A Swain Road, Thornton Heath, Surrey CR7 7AP (the Property) under the provisions of s20ZA 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 the remaining consultation requirements imposed on the landlord by section 20 of the 1985 Act¹. It appears that an initial notice was served on 23rd April 2018.
2. The application states that the Applicant was required to carry out urgent works to replace a raw sewerage pump at the Property and associated works as set out on a quotation from A & C Pumps Limited dated 16th July 2018 (the Works). The Application states that the works were carried out on 17th July 2018.
3. I am told in an application dated 18th July 2018, that the sewerage pump was not functioning properly. However, matters deteriorated and it became apparent following a further inspection in July 2018 that if the pump was not replaced there would be an overflow into the local water system causing environmental issues.
4. I am told that the residents were delivered with copies of the application, directions and questionnaire in a letter from Shelley Evans of CEC PM Limited dated 1st August 2018. It does not appear that there have been any dissenting voices.
5. The matter came before me for consideration as a paper determination on 3rd September 2018.
6. I had available papers, which included the application, the directions, the quote referred to above and a copy of a specimen lease. I have read these and taken them into account in reaching my decision
7. The only issue for me to consider is whether or not it is reasonable to dispense with the statutory consultation requirements in respect of the Works. 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

8. I have considered the papers lodged. I am not aware of any objection raised by any of the leaseholders.
9. It appears from the papers that that in March 2018 a quote was obtained from London Pumps Limited, a copy of which was in the papers before me. However, I am told that matters deteriorated and A & C Pumps attended the site, provided a quote, which included the works under the report from London Pumps Limited and some extra pipework and indicated an ability to attend the following day to deal with the Works. I am satisfied that it was necessary to carry out the replacement without undue delay to avoid the environmental impact from the failing pump.
10. The terms of the lease provide for the Respondent lessees to pay for certain works (see clauses 4.2) and for the Applicant to provide services (see 6th Schedule).
11. I am satisfied that it is appropriate to dispense with the remaining consultation requirements as set out in the Regulations¹. My decision does not affect the right of any Respondent to challenge the costs should they so wish, it relates only to dispensation under the provisions of s20ZA of the Act.

Andrew Dutton

Tribunal Judge

Andrew Dutton

3rd September 2018

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.

Regulations under subsection (4) may in particular include provision requiring the landlord—
to provide details of proposed works or agreements to tenants or the recognised tenants' association representing them,
to obtain estimates for proposed works or agreements,
to invite tenants or the recognised tenants' association to propose the names of persons from whom the landlord should try to obtain other estimates,
to have regard to observations made by tenants or the recognised tenants' association in relation to proposed works or agreements and estimates, and
to give reasons in prescribed circumstances for carrying out works or entering into agreements.

Regulations under section 20 or this section—
may make provision generally or only in relation to specific cases, and
may make different provision for different purposes.

Regulations under section 20 or this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

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).