



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

Case Reference : CHI/ 24UF/LDC/2019/0085

Property : Marina Buildings, 5-8 Stoke Road, Gosport
PO12 1NZ

Applicant : The Trustees of Locker Foundation

Representative : Proxim Property Management

Respondents : Leaseholders named in the Schedule
attached to the Application

Representative : -

Type of Application : To dispense with the requirement to
consult lessees about major works

Tribunal Member(s) : Judge Tildesley OBE

**Date and Venue of
Hearing** : On the papers

Date of Decision : 28 November 2019

DECISION

The Application

1. The Applicant seeks dispensation under Section 20ZA of the Landlord and Tenant Act 1985 from the consultation requirements imposed on the landlord by Section 20 of the 1985 Act.
2. The Applicant explains that cast iron gutters and downpipes were unsafe and required replacement due to health and Safety concerns. One section had already fallen off.
3. This is the second application for identical works the first application being struck out due to a failure by the Applicant to comply with the Tribunal's directions [CHI/24UF/LDC/2019/0064]. This Application for dispensation was received on 25 October 2019.
4. On 28 October 2019 the Tribunal directed the Applicant on receipt of the directions to send them together with a copy of the application to each Respondent. On 30 October 2019 the Applicant confirmed to the Tribunal that this had been done. The Applicant also explained that there were four commercial units and seven residential flats at the property.
5. The Applicant served the Tribunal with a hearing bundle of documents on 20 November 2019.
6. The Tribunal received a response from one leaseholder, Mrs J Wells of Flat 7B who agreed with the Application. The Tribunal notes that Mr J Emmons of Flat 8B responded to the previous application with which he was in agreement.

Determination

7. The Tribunal finds the following facts:
 - a) In July 2019 A section of the cast iron guttering fell from the rear of the building, narrowly missing the external seating area of the hairdressing unit.
 - b) The Applicant obtained two quotations to replace the gutters and downpipes, £4,520 and £8,414.
 - c) The Applicant was obliged to carry out the works urgently because of the risk to the health and safety of residents.
 - d) The Applicant informed the leaseholders that it had applied for dispensation because it did not have time to carry out the statutory consultation. The Applicant also convened a meeting of the leaseholders on 21 August 2019 to explain the situation. Only one leaseholder was able to attend the meeting.

- e) The Applicant instructed the contractor who had supplied the lowest tender and the works were completed on 11 September 2019.
8. The Tribunal is satisfied from the facts found that the Applicant did not have time to complete the statutory consultation because of the urgent nature of the works which were necessary to protect the health and safety of the residents. The Applicant took steps to mitigate its inability to consult by obtaining two quotations, holding a meeting of leaseholders and instructing the contractor who gave the lowest tender.
 9. **The Tribunal decides to dispense with the requirements to consult on the works to the gutters and downpipes because it is satisfied that the leaseholders would suffer no relevant prejudice.**
 10. The Tribunal's decision is confined to the dispensation from the consultation requirements in respect of the qualifying works. The Tribunal has made no determination on whether the costs of those works are reasonable or payable. If a leaseholder wishes to challenge the reasonableness of those costs, then a separate application under section 27A of the Landlord and Tenant Act 1985 would have to be made.
 11. The Tribunal will send a copy of the decision to the leaseholders who responded. The Tribunal asks the Applicant to inform the other leaseholders of this decision by way of noticeboard or other forms of communication.

RIGHTS OF APPEAL

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application to the First-tier Tribunal at the Regional office which has been dealing with the case.
2. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.
3. If the person wishing to appeal does not comply with the 28 day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28 day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.
4. The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking.