



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

Case Reference	: CHI/ 00HN/LDC/2020/0065
Property	: Carlton Mount, 2 Cranbourne Road, Bournemouth BH2 5BR
Applicant	: Carlton Mount Management (Bournemouth) Limited
Representative	: Burns Hamilton
Respondents	: 23 Leaseholders
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	: Determination on Papers
Date of Decision	: 9 November 2020

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 during works for which a full section 20 consultation had been carried out additional defects were discovered requiring further extensive repairs. The building was not watertight and at least some of the further repairs have been undertaken on an emergency basis to protect against further damage.
3. The Application for dispensation was received on 28 August 2020.
4. On 11 September 2020 the Tribunal directed the Applicant to serve the application and directions on the leaseholders which was done on 25 September 2020
5. The Tribunal directed that the Application would be heard on the papers unless a party requested an oral hearing. No party made such a request.
6. The Tribunal required the leaseholders to return a pro-forma to the Tribunal and the Applicant by 12 October 2020 indicating whether they agreed or disagreed with the application.
7. Three leaseholders (Flats 2, 10 and 15) returned the pro-forma stating their agreement to the application.
8. The Applicant was obliged to provide a hearing bundle by 26 October 2020. Unfortunately the Applicant failed to do this and the application was struck out. The Applicant applied for reinstatement of the application which was granted by Judge Tildesley OBE

Determination

9. The Tribunal is satisfied from the Application and the documents that the additional defects only became apparent when the works were started for which the leaseholders had been consulted about. The additional defects related to the timber deck below the waterproofing which had been severely affected by water damage and that extensive repair works would be required in order to provide a safe balcony structure.
10. The Tribunal finds that the Applicant did not have time to carry out further consultation on the works to remedy the additional defects because the building was not watertight and it would have suffered further damage if the new works had not been carried out in a timely manner.

11. The Applicant asked for updated tenders from the contractors who had tendered for the initial works. The contractor who had originally won the tender remained the most competitive at £27,460 plus VAT for the revised specification for the works with the next tender received at £48,652 plus VAT. The Applicant advised that the works are now nearing completion and it is anticipated that there will be a cost saving the region of £8,000. The Tribunal notes that all leaseholders who responded were in favour of the Application.
12. The Tribunal finds that the additional works were necessary and urgent and there was not sufficient time to carry out statutory consultation. The Tribunal further finds that the Applicant obtained three competitive tenders for the revised specification of works and chose the lowest tender. The Tribunal is, therefore, satisfied that the leaseholders would suffer no relevant prejudice if dispensation from consultation was granted.
13. **The Tribunal, therefore, dispenses with the consultation requirements in respect of the additional works to the timber deck.**
14. The Tribunal's decision is confined to the dispensation from the consultation requirements in respect of the 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.
15. The Tribunal directs the Applicant to inform the leaseholders of the Tribunal's decision and to display the written decision on a noticeboard in the common areas.

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 by email to rpsouthern@justice.gov.uk 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.

Due to the Covid 19 pandemic, communications to the Tribunal MUST be made by email to rpsouthern@justice.gov.uk. All communications must clearly state the Case Number and address of the premises.