



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

Case Reference : CHI/ 21UC/LDC/2020/0087

Property : 5 The Avenue, Eastbourne, East Sussex
BN21 3YA

Applicant : BPT (Southern Number 2) Limited

Representative : Mainstay Residential Ltd

Respondents : Mr Reynolds Flat 5
Mr & Mrs J Ridley Flat 5A
BPT (Southern) Number 2) Limited Flat 5b

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 : 30 December 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 following a fire alarm service remedial works were required immediately to ensure the building was safe.
3. The Application for dispensation was received on 3 November 2020.
4. On 4 November 2020 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.
5. The Tribunal required the leaseholders to return a pro-forma to the Tribunal and to the Applicant by 25 November 2020 indicating whether they agreed or disagreed with the Application. The leaseholders did not return the pro-forma.
6. The Applicant was obliged to provide a hearing bundle by 9 December 2020 but failed to do so. The Applicant was warned that the Tribunal would strike out the application if it failed to send the hearing bundle. Judge Tildesley has taken the unusual step of not striking it out and dealing with the Application on its merits. Judge Tildesley has done this because it would appear that the Respondents were made aware of the reason for the works and they have not responded to the Application.

Determination

7. The Tribunal's decision is confined to the dispensation from the consultation requirements in respect of the works to the fire alarm system. The Tribunal is not making a 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.
8. The issue in this case is whether the leaseholders would suffer relevant prejudice if the Tribunal granted the Applicant dispensation from the requirement to consult the leaseholders in respect of the replacement of the fire alarm system.
9. The Applicant states that an engineer attended the building on 17 April 2020 to investigate a fault with the fire alarm system. The engineer discovered that the power supply had failed on the existing fire panel and the panel was running on the battery back up system. Further once the batteries had run flat there would be no fire protection on site. The Applicant decided that as Covid 19 restrictions were in place the severity of the works required immediate action to ensure the building

was safe. The faulty fire alarm panel required replacement. The Applicant instructed the works to be carried out on 28 and 29 April 2020. The Applicant at the same time informed the leaseholders by email that the fire alarm panel was being replaced.

10. The Tribunal is satisfied that the works were urgent and that there was an imminent risk to the health and safety of the residents if the works were not done. Given those circumstances the Tribunal accepts that the Applicant did not have the time to conduct a full consultation exercise in accordance with section 20 of the 1985 Act. The Tribunal observes that the leaseholders have not objected to the Application. The Tribunal had before it no evidence that the leaseholders would suffer relevant prejudice of dispensation from consultation was granted.
11. **The Tribunal, therefore, dispenses with the consultation requirements in respect of the replacement of the fire alarm panel.**
12. The Tribunal directs the Applicant 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.