



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

Case Reference : **CHI/21UF/LDC/2022/0081 P:REMOTE**

Property : **10 Esplanade Seaford East Sussex BN25
1JL**

Applicant : **10 Esplanade RTM Company Ltd**

Representative : **Oakland Property Management**

Respondents : **Pauline Miller Flat 1
Jacqueline Peacock Flat 2
Katherine Crook Flat 3
Thomas & Vickie Logan Flat 4**

Representative : **Not represented**

**Type of
Application** : **S20ZA Landlord and Tenant Act 1985**

Tribunal Members : **Judge F J Silverman MA LLM**

**Date of paper
consideration** : **06 December 2022**

Date of Decision : **06 December 2022**

DECISION AND ORDER

It is **ORDERED** that John Godfrey and Hattenholm Investments Ltd are removed from the application as named Respondents and that the following persons are added to the Application as Respondents: Pauline Miller, Jacqueline Peacock, Katherine Crook and Thomas and Vickie Logan.

DECISION

The Tribunal determines that it will not exercise its discretion to dispense with the consultation requirements imposed by s.20 of the Landlord and Tenant Act 1985.

REASONS

1. The Applicant seeks a determination of its application for dispensation from the consultation requirements imposed by s. 20 of the Landlord and Tenant Act 1985.
2. The undated Application was received by the Tribunal on 03 November 2022.
3. Directions were issued by the Tribunal on 03 and 15 November 2022.
4. The Applicant's representative had submitted an incorrectly completed application form naming the managing agent's representative as Applicant and the freehold owner as Respondent. The Tribunal on its own motion has corrected that error to provide for the RTM company, represented by the managing agents, to act as Applicant and the four leaseholders named above to be Respondents to the application. The application does not concern the freehold owner who is discharged from the Application.
5. The property comprises a large residential building on the sea front in Seaford currently converted into four self-contained flats.
6. This matter was determined by a paper consideration on 06 December 2022 at which the Tribunal considered the Applicant's application and accompanying documents.
7. The Tribunal's Directions of 15 November 2022 required the Applicant to serve a copy of the application on each Respondent and to confirm

to the Tribunal by 22 November 2022 that this had been done. It was also asked to provide details of any objections to the Application received from the Respondents. The Applicant has provided evidence of service on the Respondents in accordance with the Directions on 10 November 2022. They have also sent to the Tribunal an email saying that no objections to the Application had been received.

8. The Applicant states that there is a major issue with the drainage at the property and that an initial inspection suggested that a collapsed drain may be the cause of the problem.
9. The Tribunal does not dispute that the circumstances outlined by the Applicant describe a serious situation which needs to be dealt with without delay. However, the Tribunal cannot give consent to works which may require the Respondents each to contribute a substantial sum of money without having satisfied itself that the proposed works are necessary, urgent, and cost effective.
10. In the present case the Applicant has not provided any details of the works to be undertaken (specification of works) nor any estimates for the costs of the works nor photos nor given a timescale for their completion.
11. There is no evidence that the Applicant has started any consultation procedures under s20 Landlord and Tenant Act 1985.
12. The Tribunal was not asked to inspect the property and in the context of the issues before it did not consider that an inspection of the property would be either necessary or proportionate.
13. The Applicant, as an RTM company standing in the shoes of the freeholder, has a repairing obligation in respect of the structure, exterior and common parts of the premises (including mains services).
14. The Tribunal is being asked to exercise its discretion under s.20ZA of the Act. The wording of s.20ZA is significant. Subs. (1) provides:

“Where an application is made to a [leasehold valuation] tribunal for a determination to dispense with all or any of the consultation requirements in relation to any qualifying works or qualifying long term agreement, the tribunal may make the determination *if satisfied that it is reasonable to dispense with the requirements*” (emphasis added).

15. The Tribunal understands that the purposes of the consultation requirements is to ensure that leaseholders are given the fullest possible opportunity to make observations about the expenditure of money for which they will in part be liable.
16. Having considered the submissions made by the Applicant the Tribunal is not satisfied that sufficient evidence has been provided by the Applicant to allow the Tribunal to exercise its discretion in their favour and thus declines to do so.
17. This determination does not affect the tenants’ rights to apply to the Tribunal challenging the payability or reasonableness of the service charges.

Judge F J Silverman
Date 06 December 2022

Note:
Appeals

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.
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.