



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

Case Reference : CHI/00HN/LDC/2019/0021

Property : Dorchester Mansions, Manor Road,
Bournemouth BH1 3HP

Applicant : Dorchester Mansions (1997) Limited

Representative : Guy Williams Layton LLP

Respondents : Mrs Shoshana Stern (Flat 12)

Representative :

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

Tribunal Member(s) : Judge D. R. Whitney

**Date and Venue of
Hearing** : Determination on Papers

Date of Decision : 20th May 2019

DECISION

The Application

1. This is an application for dispensation from the consultation requirements provided for in section 20 Landlord and Tenant Act 1985.
2. The application was received on 14th March 2019. Works are required to the roof, windows and external render due to water ingress to certain areas of the building. A consultation exercise was undertaken in November 2017 but works did not take place. It is proposed that the contractor recommended following that consultation, Hardie Roofing Limited, will undertake the works on the basis of the earlier price but subject to the contingency.
3. Directions were issued on 19th March 2019.
4. The Tribunal directed the Applicant to serve a copy of the application and directions on each leaseholder by 26th March 2019.
5. The directions required the leaseholders to return a pro-forma to the Tribunal indicating whether they agreed or disagreed with the application and whether they consented to a determination on the papers.
6. The Tribunal received five responses. All leaseholders who responded confirmed they agreed with the application and were content with the matter to be determined on the papers.
7. Paragraph 10 of the directions provided that those leaseholders who agreed with the application or did not respond would be removed as Respondents. No leaseholder objected to the application. Mrs Stern, the owner of Flat 12 is named as a Respondent since although she did not respond the hearing bundle identified that forfeiture proceedings were being undertaken by the Applicant against Mrs Stern. The tribunal determined given the circumstances it was appropriate for Mrs Stern to remain as a Respondent to the application.

Determination

8. The building is a purpose-built block containing 11 flats. The numbering is 1-10 and then Flat 12, the Penthouse. There is no flat 11.
9. The Application indicates that Flat 12 is subject to forfeiture proceedings. The Applicants representative confirmed that the solicitors for the leaseholder of Flat 12 was advised that application was being made.
10. The Application sets out the proposed contract costs which including VAT total £200,265.00. Plainly the cost is considerable. By letter dated 17 April 2019 the Applicants representative advised the tribunal that

many residents were elderly and had contacted the managing agents . The letter set out that the following contact had been received:

- Flat 7 and Flat 8 confirmed to the managing agent that they agreed with the application by email and copies of the emails were produced;
 - The owners of Flat numbers 1,3,4,9,10 and 11 had contacted the managing agents by telephone to confirm their agreement;
 - Flat 12 had been excluded due to on-going forfeiture proceedings;
11. The Tribunal had received forms from the following flat numbers: 2, 3, 5, 6 and 10. It would appear from the papers that all leaseholders save for the owner of Flat 12 have agreed to the application. No response has been received from Flat 12 save the Tribunal notes that Applicants confirm that the solicitors for the leaseholder of Flat 12 and her mortgagees have been notified of the application.
 12. Details of the proposed works and notice of intention dated 17th April 2018 have been included. There is no other correspondence included within the bundle although the application sets out the circumstances leading to the application, principally the fact delay has occurred due to difficulties in raising funds meaning the works are now urgent. Further there is a risk that if the preferred contractor is not appointed swiftly that Hardie Roofing Limited may withdraw. The Application indicates that Hardie Roofing Limited have indicated they will not proceed at the agreed price unless they are instructed to proceed at this time. If this happens it is believed a further consultation may be required with additional delay and cost which is not in any parties interest.
 13. Whilst it may have been useful to have obtained copies of relevant correspondence, particularly with flat 12 and copies of all earlier notices it is clear that residents are aware of the proposed works. Even if one discounts the telephone replies to the managing agents the majority of residents have positively supported the application. It seems clear all agree works are required and wish the same to proceed.
 14. Considering matters in the round and given the potential for costs to significantly increase in this Tribunals judgement it is reasonable to dispense with the strict requirements for consultation.
 15. **The Tribunal dispenses with the consultation requirements in respect of the major works proposed to roof reweathering, bay repairs and front elevation decorations**
 16. This decision is confined to the dispensation from the consultation requirements in respect of the major works. The Tribunal has made no determination on whether the costs of those works are reasonable or payable. A leaseholder retains the right to challenge the costs of the

works by making application to the Tribunal under section 27A of the 1985 Act.

Judge D. R. Whitney

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