



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

Case Reference	:	LON/00BE/LDC/2019/0098
Property	:	Vogans Mill, 17 Mill Street, London SE1 2BZ
Applicant	:	Vogans Mill Management Limited
Representative	:	Randall and Rittner Limited
Respondent	:	The leases of the 70 flats at the property. The details of which are submitted with the application
Representative	:	None
Type of Application	:	An application under section 20ZA of the Landlord and Tenant Act 1985 for dispensation from consultation prior to carrying out works
Tribunal Members	:	Mr I B Holdsworth FRICS MCI Arb
Date and venue of Hearing	:	21 August 2019, 10 Alfred Place, London WC1E 7LR
Date of Decision	:	21 August 2019

DECISION

Decisions of the Tribunal

The Tribunal determines that dispensation should be given from all the consultation requirements in respect of the fire safety works (defined as the “fire safety works”) at Vogans Mill, 17 Mill Street, London SE1 2BZ required under s.20ZA of the Landlord and Tenant Act 1985 (the “Act”) for the reasons set out below.

The application

1. The Applicant seeks a determination pursuant to s.20ZA of the Landlord and Tenant Act 1985 (“the 1985 Act”) to dispense with the statutory consultation requirements associated with carrying out essential fire safety works at Vogans Mill, 17 Mill Street, London SE1 2BZ “**the property**”.
2. An application was received by the First-tier Tribunal dated 13 June 2019 seeking dispensation from the consultation requirements. Directions were issued on the 24 June to the Applicant. These Directions required the Applicant to advise all Respondents of the application and provide them with details of the proposed works.
3. The relevant legal provisions are set out in the Appendix to this decision.

The hearing

4. This matter was determined by written submissions. The Applicant submitted a Bundle of relevant materials to the Tribunal.
5. No responses were received by Tribunal from the Respondents since they were advised of the intention to seek dispensation from the statutory consultation procedure by the managing agents.

The background

6. The property which is the subject of this application comprises five blocks of varying heights. Part of the property is a purpose built sixteen storey high block whilst the four other blocks are six storeys high and formed from the conversion of former period wharfage buildings. The property has seventy self-contained flats.
7. A Fire Risk Assessment was carried out on 27 September 2018 by Worksafe which provided an overview of fire safety at this property. Further safety advice was provided by a Fire Safety Management Review carried out by Greshams (SMS) Ltd dated 17 May 2019.

Recommended and required works to meet necessary fire safety requirements are listed at pages 9 and 10 of this report. The need to undertake these works had previously been emphasised in an email dated 8 May 2019 from Greshams (SMS) to the managing agent.

8. The proposed fire safety works are specified in the Gresham (SMS) advice.
9. The fire safety works fall into two parts:
 - Fire stopping; and
 - Fire door upgrading and repair.
10. Quotes were obtained for the fire stopping works, but the fire door works were excluded from some of the tender returns. A final tender price for the works was not supplied with the Bundle submitted to Tribunal.
11. A Notice of Intention to carry out the proposed fire safety works was sent to leaseholders on 5 June 2019 and it is not the intention of the Applicants to carry out any further consultation about this matter.
12. The Applicants contend that the fire safety repair works are needed urgently to ensure the safety of residents throughout the property. The Applicants claim that their consultants advise “*any unreasonable delays in {carrying out} the works may result in the London Fire Authority issuing Vogan’s Mill with a Fire Order.*” The Applicants also submit in their application to Tribunal that, “*the {fire safety} works were highlighted by Gresham (SMS) to be actioned immediately.*”
13. Prior to my determination I had available a Bundle of papers which included the application, the directions and a copy of written representations prepared by the Applicants that provided information on the background to the lift works.
14. A copy of a specimen lease for each flat is supplied. The reasonable cost of carrying out fire safety works to the property is recoverable by the Applicant Landlord as service charges under clauses 6(b) Repair and 6(k) Services in the lease. By 5(a) (ii) the tenant covenants to pay a contribution towards meeting the service charges.
15. The only issue for me to consider is whether or not it is reasonable to dispense with the statutory consultation requirements in respect of the fire safety works. This application does not concern the issue of whether any service charge costs are reasonable or payable.

The determination

16. I have considered the papers lodged. Two queries about the proposed works were raised by residents. These focused on the costs of the works and whether competitive quotes were obtained for all the fire works from independent contractors. They did not object to undertaking the works.
17. These responses are noted by Tribunal and the Applicants are reminded that this determination does not affect the right of the Respondents to challenge the costs or the standard of work should they so wish at a later date.
18. There is a demonstrated need to carry out the works urgently to minimise the fire hazard risk to the property but particularly a high-rise residential building. A London Fire Authority Fire Order may be made if the works are not expeditiously undertaken. I cannot identify any prejudice caused to the Respondents by the grant of dispensation from the statutory consultation procedure. It is for these reasons that I am satisfied it is appropriate to dispense with the consultation requirements for the fire safety works.
19. The Tribunal have recently received two previous applications (LON/00BE/LDC/2019/0068 and LON/00BE/LDC/2019/0058) seeking dispensation from statutory consultation for fire safety works at this building. The Tribunal would encourage the managing agents to address the fire safety requirements and necessary safety works at this property in a systematic and comprehensive way. **The piecemeal approach adopted to works specification and tender allocation is likely to confuse tenants over their justification and to increase the likelihood of future disputes over the reasonableness of the costs incurred.**
20. **My decision does not affect the right of the Respondents to challenge the costs or the standard of work should they so wish.**
21. **In accordance with paragraph 10 of the Directions, it is the Applicant's responsibility to serve a copy of the Tribunal's decision on all Respondent leaseholders listed on the application.**

Valuer Chairman: Ian B Holdsworth

21 August 2019

Appendix of relevant legislation

Section 20 of the Act

- (1) Where this section applies to any qualifying works or qualifying long term agreement, the relevant contributions of tenants are limited in accordance with subsection (6) or (7) (or both) unless the consultation requirements have been either—
 - (a) complied with in relation to the works or agreement, or
 - (b) dispensed with in relation to the works or agreement by (or on appeal from) a leasehold valuation tribunal.
- (2) In this section “relevant contribution”, in relation to a tenant and any works or agreement, is the amount which he may be required under the terms of his lease to contribute (by the payment of service charges) to relevant costs incurred on carrying out the works or under the agreement.
- (3) This section applies to qualifying works if relevant costs incurred on carrying out the works exceed an appropriate amount.
- (4) The Secretary of State may by regulations provide that this section applies to a qualifying long-term agreement—
 - (a) if relevant costs incurred under the agreement exceed an appropriate amount, or
 - (b) if relevant costs incurred under the agreement during a period prescribed by the regulations exceed an appropriate amount.
- (5) An appropriate amount is an amount set by regulations made by the Secretary of State; and the regulations may make provision for either or both of the following to be an appropriate amount—
 - (a) an amount prescribed by, or determined in accordance with, the regulations, and
 - (b) an amount which results in the relevant contribution of any one or more tenants being an amount prescribed by, or determined in accordance with, the regulations.
- (6) Where an appropriate amount is set by virtue of paragraph (a) of subsection (5), the amount of the relevant costs incurred on carrying out the works or under the agreement which may be taken into account in determining the relevant contributions of tenants is limited to the appropriate amount.
- (7) Where an appropriate amount is set by virtue of paragraph (b) of that subsection, the amount of the relevant contribution of the tenant, or each of the tenants, whose relevant contribution would otherwise exceed the amount prescribed by, or determined in accordance with, the regulations is limited to the amount so prescribed or determined.

Rights of appeal

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the tribunal is required to notify the parties about any right of appeal they may have.

If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber), then a written application for permission must be made to the First-tier Tribunal at the regional office which has been dealing with the case.

The application for permission to appeal must arrive at the regional office within 28 days after the tribunal sends written reasons for the decision to the person making the application.

If the application is not made within the 28-day time limit, such application must include a request for an extension of time and the reason for not complying with the 28-day time limit; the tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed, despite not being within the time limit.

The application for permission to appeal must identify the decision of the tribunal to which it relates (i.e. give the date, the property and the case number), state the grounds of appeal and state the result the party making the application is seeking.

If the tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).