



FIRST-TIER TRIBUNAL PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case Reference : CHI/21UD/LDC/2019/0055

Property : 41 Church Road, St Leonards, East Sussex
TN37 6HB

Applicant : Peter Campbell

Representative : ---

Respondent : N Swaysland (Flat 1)
G Town (Flat 2)
T Oliver (Flat 4)
G Town (Flat 5)

Representative : ---

Type of Application: Dispensation with consultation requirements –
Section 20ZA Landlord and Tenant Act 1985 (the
1985 Act)

Tribunal Member : Judge P J Barber

Date of Decision: 28th August 2019

DECISION

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Decision

- (1) The Tribunal determines that dispensation is granted to the landlord Applicant in part, from consultation requirements in respect of the works which are the subject of this application; specifically, dispensation is granted from the requirement on the landlord to serve a Notice of Estimates on each tenant, as provided for in paragraphs 11 and 12 in Schedule 4, Part 2 of the Service Charges (Consultation etc) (England) Regulations 2003.

Reasons

INTRODUCTION

1. The application dated 2nd June 2019, is for a determination to dispense in part with consultation requirements in relation to qualifying works; the works which were started in May 2019 broadly comprise:-
 - Installation of electrically operated fire warning system in lobby
 - Preparation of electrical sub-mains services
 - Remaking cable risers ground, first & second floors - fire resistant for 30 minutes
 - Removing lobby ceiling & replacing with plaster skim finish
 - Intercom System – replace cabling in remade cable risers to all flats
 - Communal (internal) lighting – upgrade with new switch points at flat entrances in remade cable ducts
 - Cupboard 2nd Floor Landing – remove & provide fire proof temporary stud wall before further works within separate Section 20 consultation, are undertaken

Directions were issued on 5th August 2019, providing for the application to be determined on the basis of written representations, without an oral hearing unless a party objected; no objection was received within the time limit as stated in the directions.

2. The Applicant has provided a bundle of documents including copies of diary summaries, the HMO Licence for the Property, Invitations to Tender, Proposals, Quotations, Photographs and Notification of Estimates.
3. The Property is a five-storey end of terrace house, converted into five self-contained flats. A specimen copy Lease, being in respect of the Ground Floor Flat was included with the application, being a Lease dated 14th September 1989 made between James Ronald Bennewith (1) George Somogyi (2) (“the Lease”) for a term of 125 years from 25th March 1989.
4. The Tribunal sent a copy of the application and the directions to each Respondent; the directions provided that the Respondents should by 19th August 2019 complete and return a reply form to the Tribunal, and if they opposed the application, they should send a statement in response to the Applicant. The directions provided that that one copy of the bundle should be sent by the Applicant to the Tribunal and also one copy to each Respondent opposing the application.

THE LAW

5. Sub-Section 20ZA(1) of the 1985 Act provides that:-

(1) Where an application is made to the appropriate 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

The Service Charges (Consultation Requirements) (England) Regulations 2003 SI 2003/1987, set out at Schedule 4, the consultation requirements for qualifying works other than works under qualifying long-term agreements and agreements to which regulation 7(3) applies. In broad terms, Schedule 4, Part 2 of the 2003 Regulations provide for notices to be served by a landlord on each tenant at three stages, being:-

- Notice of Intention to Carry out Works
- Notice of Estimates
- Notice of Entry into a Contract

WRITTEN REPRESENTATIONS

6. The bundle included details of the invitations to tender, proposals, quotations, photographs and notification of estimates.

CONSIDERATION

7. The Tribunal, have taken into account all the case papers in the bundle; the bundle includes neither any reply forms from the Respondents, nor any written statements from any of the Respondents opposing the application. Accordingly, it appears, on the basis of the papers received by the Tribunal, that none of the Respondents opposes the application.

8. The Applicant had explained in the application, that a Section 20 Notice of Intention to Carry out work, had been issued to all leaseholders and freeholders on 13th March 2019 and that no observations or nominations were received from the leaseholders; the Applicant further indicated that he had written to all leaseholders on 22nd May 2019, and enclosed a Notification of Estimates but that it did not formally meet the statutory requirements. The Applicant requested dispensation from stage 2 Notification of Estimates, but indicated that he intended to perform the Stage 3 Notification of the Award of Contract, explaining best price achievement.

9. Accordingly, and on the basis of the documents provided by the Applicant, including the explanation of the need for the works, and also the application and the bundle, the Tribunal is satisfied that it is reasonable to dispense in part with the consultation requirements in regard to the works which are the subject of the application, specifically so that the requirements to carry out Stage 2 Notice of Estimates consultation in respect of such works, are dispensed with.

10. This decision does not concern the issue of whether any service charge costs will be reasonable or payable in respect of the subject works, and such costs remain subject to potential challenge at a future date by the tenants, if appropriate.

11. We made our decisions accordingly.

Judge P J Barber

A member of the Tribunal
appointed by the Lord Chancellor

Appeals

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.