



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

Case Reference	: CHI/ 21UG/LDC/2019/0050
Property	: The Landmark, 70 Sackville Road, Bexhill-on-Sea, East Sussex TN39 3FA
Applicant	: Bankside Real Estate Limited
Representative	: Oakfield PM Limited
Respondents	: Leaseholders named in the Schedule attached to the Application
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	: 24 July 2019
Date of Decision	: 24 July 2019

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 it wishes to seek dispensation from consultation in respect of the works to the Sackville Road Lift because it has been out of service for over a month and lift engineers have experienced great difficulty in resolving the problem. The work is considered urgent because of elderly and disabled residents having difficulties in negotiating the stairs.
3. The Application for dispensation was received on 20 June 2019.
4. On 21 June 2019 the Tribunal directed the Applicant on receipt of the directions to send them together with a copy of the application to each Respondent. On 26 June 2019 the Applicant confirmed to the Tribunal that this had been done.
5. The Applicant served the Tribunal with a hearing bundle of documents on 12 July 2019.
6. The Tribunal received responses from five leaseholders, four of whom agreed with the Application. Mr Warren Munro of Flat 64 disagreed with the Application and requested a hearing.
7. The Tribunal decided to hold the hearing by telephone conferencing. The hearing was held on 24 July 2019. Miss Bethany Mallett Property Manager of Oakfield PM and Mr Munro attended the hearing. Miss Mallett confirmed that she had the authority to represent the Applicant in these proceedings

Determination

8. The Tribunal found the following facts:
 - a) The Applicant had completed stages 1 and 2 of the statutory consultation procedures in respect of works to two lifts within the building including the Sackville Road Lift.
 - b) The Applicant had received no responses to the stage 1 consultation except for questions about how the works would be funded. The Applicant indicated that the costs would be from the reserves.
 - c) The Applicant had obtained four quotations from reputable lift companies which had been shared with leaseholders and the tenants' association. The Applicant had decided to accept the quotation from East Sussex lifts which was not the cheapest

tender (some £4,500 more) but was the preferred contractor for the tenants' association.

d) The works had not yet started to the Sackville Road lift because it had been repaired and was currently working.

9. Mr Munro was unaware of the extent of the consultation already undertaken. Mr Munro said that he agreed with the Applicant's choice of contractor. The Tribunal explained that a decision on dispensation did not affect his right to make application to challenge the reasonableness of the costs for the works if he later found out that they were not competitive or the works were too extensive. Given the above circumstances Mr Munro withdrew his objection.
10. The Tribunal is satisfied from the facts found that the Applicant has effectively carried out the statutory consultation process. It is clear from the evidence that the Applicant has listened to the views of the leaseholders by choosing their preferred contractor.
11. The only consultation stage that remains outstanding is the duty on the Applicant to give notice of entering into to contract within 21 days where the contractor is not the nominated person or submitted the lowest estimate. There may be some doubt as to whether the preferred contractor is the nominated person because the name of the contractor was provided by the insurance company for the Applicant.
12. **The Tribunal decides to dispense with the final stage of the consultation process for works to both lifts because the leaseholders would suffer no relevant prejudice.**
13. The Tribunal's decision is confined to the dispensation from the consultation requirements in respect of the qualifying works. The Tribunal has made no 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.
14. The Tribunal will send a copy of the decision to the leaseholders who responded. The Tribunal asks the Applicant to inform the other leaseholders of this decision by way of noticeboard or other forms of communication.

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.