



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

Case Reference : CHI/ 43UF/LDC/2019/0081

Property : 14-28 Chilmark Gardens (Evens),
Merstham, Surrey RH1 3NX

Applicant : Raven Housing Trust Limited

Representative : Clarke Wilmott LLP

Respondents : Miss Natalie Wilton

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** : 9 December 2019
Havant Justice Centre
Hearing held by means of a Telephone
Conference

Date of Decision : 9 December 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 Applicant explains that it has undertaken work to remedy collapsed drains at the block to the rear of number 24. The works were prompted by a report from Miss Natalie Wilton and her partner the leaseholders of 24 Chilmark Gardens who had noticed a very big gap on the exterior wall which stretched along the exterior kitchen wall and down into the wall adjoining the alley. The Applicant undertook a drainage survey by CCTV on 2 October 2019 which identified significant issues with the drains that posed serious risks of damage to the foundations and of damp to the property walls. The Applicant decided to commission immediate works by engaging an approved contractor. The works commenced on 7 October 2019 and completed on 11 October 2019. The costs of those works were £9,895 plus Vat and each leaseholder is expected to contribute no more than £1,528.18 via the service charge. The Applicant is hoping to recover some of the costs from the building insurance which is subject to a £5,000 excess. The Applicant states that it was unable to carry out statutory consultation because of the urgency of the works.
3. The Applicant applied for dispensation on 18 October 2019.
4. On 25 October 2019 the Tribunal directed that the Application would be dealt with on the papers and served a copy of the application and directions on each leaseholder. The directions required the leaseholders to return a pro-forma to the Tribunal by 8 November 2019 indicating whether they agreed or disagreed with the application and whether they consented to a determination on the papers.
5. The leaseholders of Flats 20 and 26 agreed with the Application. The Tribunal did not receive a response from the leaseholder of Flat 22. The directions indicated that those parties agreeing to the Application or not returning the form would be removed as Respondents. Miss Wilton of Flat 26 objected to the Application and requested a hearing.
6. The Tribunal advised that the hearing would be held by means of a telephone conference on 9 December 2019. The Applicant prepared a hearing bundle.
7. At the hearing Mrs Kerry Withers of Clarke and Wilmot solicitors represented the Applicant. Mr David Robb, the Applicant's Home Ownership Manager, was in attendance. Miss Natalie Wilton appeared in person.

Determination

8. The Tribunal found that the works were necessary and urgent, and that the leaseholders had suffered no relevant prejudice from the Applicant's non-compliance with the consultation requirements.
9. **The Tribunal, therefore, dispenses with the consultation requirements in respect of the works associated with the repairs to the drains, foundations, damp proof course and with the reinstatement of the patio and fence on condition that the Applicant is responsible for its legal and associated costs connected with the Application**
10. This decision is confined to the dispensation from the consultation requirements in respect of the works identified in 9 above. The Tribunal has made no determination on whether the costs of those works are reasonable or payable or whether the landlord is in breach of its covenants under the lease.
11. The Tribunal will send the decision to the Miss Wilton. The Tribunal requires the Applicant to notify the remaining leaseholders of the decision and confirm in writing that it has carried out the Tribunal's instruction.
12. The Tribunal reserves the right to provide detailed reasons in the event of an application for permission to appeal.

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