



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

Case Reference : **BIR/OOFN/LDC/2019/0016**

Property : **14 Glenfield Road
Leicester
LE3 6AP**

Applicant : **J H Watson Property Investment Ltd**

**Applicant's
Representative** : **Watson**

Respondents : **Mr I S & Mrs D S Thandi (Flat 1)
Mr D Hrynishak (Flat 2)
Mr A L Patel (Flat 3)
Mrs M James (Flat 4)**

Type of Application : **Application for the dispensation of all
or any of the Consultation
Requirements provided for by Section
20ZA of the Landlord & Tenant Act
1985**

Tribunal Members : **Mr G S Freckelton FRICS (Chairman)
Tribunal Judge P.J Ellis**

Date of Inspection : **19th December 2019**

Hearing : **Paper Determination**

Date of Decision : **2nd January 2020**

DECISION

Background

1. By Application dated 21st November 2019, received by the Tribunal on 25th November 2019 the Applicant, through its Managing Agents, Watson, applied to the Tribunal for Dispensation from the Consultation Requirements imposed by Section 20 of the Landlord & Tenant Act 1985 ('the Act') and the Service Charges (Consultation Requirements) (England) Regulations 2003 in respect of the property known as 14 Glenfield Road, Leicester, LE3 6AP.
2. The Application requested that the matter be dealt with on the Fast Track as urgent repairs were required to the rear roof. The Tribunal issued Directions on 28th November 2019.

The Facts

3. The property at 14 Glenfield Road, Leicester, LE3 6AP comprises of 4 self-contained flats originally converted from a single residential house. The Tribunal has been provided with a copy of the lease for one of the flats. Based on the date of the Lease, the Tribunal assumes that the conversion was completed some 30 years ago. The Tribunal assumes all the leases are in an identical format.
4. The Applicant in this case is the Freeholder and the Respondents are the various long leaseholders of the flats whose details are given in the Schedule attached to this decision.
5. Clause 7 of the lease provides for the Freeholder to be responsible for the repairs which are required under this Application and Clause 5 provides for the Respondents to pay a maintenance charge to cover the costs of those repairs.
6. The Tribunal carried out an inspection on 19th December 2019.
7. The Tribunal understands from the Application and accompanying documentation that the property comprises 4 flats and from its inspection notes that these appear to be set out on the ground, first and second floors of the building. The property is semi-detached and brick built surmounted by pitched roofs. It is estimated by the Tribunal that the property was built in the second half of the 19th Century.
8. According to the Application, work is required to the rear roof to the property.
9. The Tribunal noted that scaffolding had been erected to the roof area at the rear although no remedial works appeared to have been completed at the time of the Tribunal's inspection. The roof is presently covered by interlocking concrete tiles and the Tribunal infers that these have proved too heavy for the original roof structure. Those surrounding properties which still have their original roof coverings were noted to be a mixture of slate and clay tiles, both of which are lighter than interlocking concrete tiles as fitted to the subject property.
10. The Tribunal understands that the roof is to be recovered and the structure strengthened.
11. The Application confirms that the Applicant seeks dispensation from all of the consultation requirements as it considers the work to be urgent.

12. The Applicant submits in its statement that Dispensation is sought in respect of roof works which are required to prevent further leaking into the building. It is also submitted that the roof tiles are too heavy for the roof structure which requires replacing as the structure is deflecting which can cause instability to the building.
13. The Tribunal understands, based on the Application and the Applicant's submission that the Application for Dispensation is sought:
 - a) Because the roof is leaking.
 - b) That the weight of the roof has caused damage to the roof structure which also requires attention.
 - c) That the work is urgent to prevent ongoing leaking and the potential of damage to the building.
14. The Tribunal infers from the submissions that if the full consultation process was to be undertaken, the delay could result in further damage to the structure of the roof and potentially the building itself.
15. The Tribunal has received a copy of the specification for the works required provided by the Applicant's Representative and a report from M R Hayton, Building and Property, 76 Avebury Avenue, Leicester, LE4 0BH together with a Tender for the works in the sum of £7,500.00.
16. The Tribunal understands that the Leaseholders have all been informed of the Application and had an opportunity to comment on the proposed works and costs but no observations have been received by the Tribunal.

The Law

17. Where a landlord proposes to carry out qualifying works, which will result in a charge being levied upon a leaseholder of more than £250, the landlord is required to comply with the provisions of Section 20 of the Landlord & Tenant Act 1985 and the Service Charges (Consultation Requirements) (England) Regulations 2003.
18. Failure to comply with the Regulations will result in the landlord being restricted to recovery of £250 from each of the leaseholders unless he obtains a dispensation from a Leasehold Valuation Tribunal under Section 20ZA of the Act, (now the (First-tier Tribunal) (Property Chamber)).
19. In deciding whether or not to grant dispensation, the Tribunal is entitled to take into account all the circumstances in deciding whether or not it would be reasonable to grant dispensation. An Application to grant dispensation may be made before or after the commencement of the works.

The Tribunal's Decision

20. It is evident to the Tribunal that the work is urgent, and if the work is delayed further damage (which would be more expensive to repair) could occur.

21. It is also evident to the Tribunal that the defects to the roof presented a real potential danger to both the building and persons using the building whether they are residents or visitors.
22. The Tribunal is satisfied on the information provided that it is reasonable to dispense with the consultation requirements in this case. The Tribunal is satisfied that leaseholders will not suffer (or have not suffered) any prejudice by the failure to consult. Indeed, they would, in the Tribunal's view, be significantly prejudiced if the work is delayed.
23. The Tribunal is satisfied that the works appear comprehensive and that if properly completed should resolve the defects to the roof.
24. The Tribunal is also influenced by the fact that none of the Respondents have made any submission to the Tribunal either opposing or commenting on the Application.
25. Accordingly, the Tribunal grants the dispensation requested under Section 20ZA and determines accordingly.
26. This Determination does not give or imply any judgement about the reasonableness of the works to be undertaken or the cost of such works.

APPEAL

27. Any appeal against this Decision must be made to the Upper Tribunal (Lands Chamber). Prior to making such an appeal the party appealing must apply, in writing, to this Tribunal for permission to appeal within 28 days of the date of issue of this Decision, (or, if applicable, within 28 days of any decision on a review or application to set aside) identifying the decision to which the appeal relates, stating the grounds on which that party intends to rely in the appeal, and stating the result sought by the party making the application.

G S Freckelton FRICS.
Chairman.

First-tier Tribunal Property Chamber (Residential Property)

SCHEDULE OF RESPONDENT LEASEHOLDERS

FLAT NUMBER	NAME OF OWNER	
1	Mr I S & Mrs D S Thandi	
2	Mr D Hrynishak	
3	Mr A L Patel	
4	Mrs M James	