



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

Case reference : **LON/00BJ/LSC/2020/0117**

HMCTS Code : **P:Paper remote**

Property : **Marius Mansions, Marius Road,
London SW17 7QG**

Applicant : **RG Securities (No 2) Limited**

Representative : **Packfords Management**

Respondent : **The leaseholders of the 16 flats in
Marius Mansions**

Type of application : **To dispense with the requirement
to consult leaseholders about
works**

Tribunal members : **Judge Angus Andrew
Mr Kevin Ridgeway MRICS**

Hearing venue : **10 Alfred Place, London WC1E 7LR**

Date of decision : **1 September 2020**

DECISION

Covid-19 pandemic: description of hearing

This has been a remote hearing on the papers which has been consented to by the applicant and not objected to by the respondents. The form of remote hearing was P: PAPER REMOTE. A face-to-face hearing was not held because it was not practicable and no-one requested the same.

The application and determination

1. On 23th March 2020 the applicant applied to the tribunal for dispensation from the consultation requirements provided by section 20 of the Landlord and Tenant Act 1985 in respect of the proposed investigation of dry rot discovered in the timber wall plates and joists supporting the floor of flat 5 and any remedial work found to be necessary. The applicant consented to the application being determined on the papers alone and without an oral hearing.
2. The tribunal gave directions on 26 June 2020. The directions provided for a paper determination unless by 7 August 2020 any party requested an oral hearing. It is apparent that no such request was received by the tribunal.
3. The directions required the applicant by 8 July 2020 to confirm by email that it had sent to each leaseholder by 3 July 2020 copies of the application form and the directions and had placed copies in a prominent place in the common parts of Marius House. The applicant did not comply with that requirement and the tribunal case office sent a reminder on 6 August 2020 which elicited the response that “*the application*” was sent to the leaseholders on 2 July 2020. We first considered the documents on 21 August 2020. At our request the tribunal case office requested the applicant’s representative to confirm that a copy of the tribunal directions had also been sent to every leaseholder. Without such confirmation we could not be satisfied that the leaseholders were aware of their right to object to the application. That confirmation was received on 25 August 2020. Our request for an update on the progress of the works and any estimates obtained was ignored. Although we are satisfied that an update and copy estimates are not essential to the decision that we are required to make we nevertheless consider it appropriate to express our reservations about the conduct of the applicant’s representative in responding to both the tribunal directions and our request for additional information.
4. The directions required those leaseholders who opposed the application to complete a reply form attached to the directions and return it to the tribunal by 24 July 2020. The reply form also gave the leaseholders the opportunity to request an oral hearing. We are advised by our case officer that no completed reply forms were received by the tribunal.

5. As a result of the Covid-19 Pandemic the applicant was required to submit digital papers by email. We were given remote access to those papers that included the application form, a specimen lease, a specialist report from a firm of Civil and Structural Engineers, an intention notice of 12 March 2020 served on the leaseholders, observation in response received from two leaseholders and email correspondence from the applicant's representative. Having reviewed those documents we are satisfied that the case is suitable for a paper determination. It is on the basis of those documents that we find the facts recorded in the following sections of this decision.

Decision

6. For each of the following reasons we dispense with the consultation requirements provided by Section 20 of the Landlord and Tenant Act 1985, in so far as they relate to the proposed investigation of dry rot discovered in the timber wall plates and joists supporting the floor of flat 5 and any remedial work found to be necessary.

Reasons

7. The application is supported by the report of Christopher Grey BEng, CEng, MStructE, MIEI, which in turn relies on the report prepared by LBB Chartered Surveyors. Although Mr Grey's report is dated 27 April 2020 he has provided as an addendum the report of a site visit on 7 July 2020.
8. It is apparent from all three reports and from photographs appended to Mr Grey's report that the timber wall plates and joists supporting the floor of flat 5 are in very poor condition and likely to be affected by dry rot.
9. Although Mr Grey considers that "*the building fabric/structureis not in danger of collapse*" it is nevertheless apparent that the structure supporting the floor of flat 5 has been compromised. We are satisfied that any further investigations and the remedial work itself should be completed as quickly as possible and should not be delayed by strict compliance with the consultation requirements.
10. We remind ourselves that we are not concerned with either the leaseholders' liability to pay a service charge in respect of the proposed work or the reasonableness of the cost. The leaseholders will still be able to challenge both their liability to pay a service charge and the actual cost of the proposed work should they consider it unreasonable.
11. The Intention Notices served on 12 March 2020 gave the leaseholders notice of the proposed investigations and remedial works and invited observations. Only two observations were received: one nominated a contractor and the other requested the completion of additional work to a

window frame. None of the leaseholders objected to the proposed investigations and remedial works.

12. None of the leaseholders have objected to the application for dispensation despite being given the opportunity to do so.

Name: *Judge Angus Andrew* **Date:** 1 September 2020

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).