



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

Case Reference : **BIR/OOCS/LDC/2021/0005**

Property : **The Farthings
Wordsworth Close
Tipton
DY4 0TQ**

Applicant : **The Farthings Management Company Ltd**

**Applicant's
Representative** : **Mr S M Rajpura**

Respondents : **The Leaseholders
The Farthings
Wordsworth Close
Tipton
DY4 0TQ**

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)
Mr T W Jones FRICS**

Date of Determination : **3rd June 2021**

Hearing : **Paper Determination**

DECISION

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Covid-19 pandemic: description of hearing:

1. This has been a remote hearing on the papers which has been not objected to by the parties. The form of remote hearing was P:PAPERREMOTE. A face-to-face hearing was not held because it was not practicable, and all issues could be determined on paper.

Background

2. By Application dated 25th April 2021, received by the Tribunal on 26th April 2021 the Applicant, through its Representative who we are told, is Secretary of the Management Company 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 The Farthings, Wordsworth Close, Tipton, DY4 0TQ.
3. The Application requested that the matter be dealt with on the Fast Track as the Applicant had been planning the work for several years but now needed to get it undertaken during the summer before the onset of cold weather. Contractors were busy so the Applicant needed to book the work as soon as possible so it could be completed during the summer months.
4. The Tribunal issued Directions on 28th April 2021 following which submissions were received from the Applicant and some of the Respondent Leaseholders.

The Facts

5. Based on the information provided in the Application and from the parties' submissions the Tribunal understands that the property comprises of three blocks of flats known as 'Red Block', 'Blue Block' and 'Green Block'. There are six flats in each block spread over three floors in each block with two flats on each floor. There are therefore eighteen flats in total.
6. The Tribunal is informed that the properties were built in 1995.
7. The Applicant in this case is the Management Company and the Respondents are the various long leaseholders of the flats whose details are given in the Schedule attached to this decision.
8. The Tribunal has been sent a copy of a lease dated 27th April 1995 between Gotheridge and Sanders Limited and Jason Gibson and Angela Wendy Gibson in respect of a property described as Plot 11 The Farthings, Wordsworth Close, Tipton, West Midlands, and assumes all leases are in a similar format. The Fifth Schedule of the lease provides for the Management Company to be responsible for the repairs which are required under this Application and for which the Respondents pay a maintenance charge.
9. The Tribunal was unable to carry out an inspection due to the Covid-19 Pandemic but considered that it was able to proceed with the Determination based on the submissions made to it.

10. Based on the Application the Tribunal surmises work is required to replace the front and rear entrance doors to each block. The doors are described in the Application as *'looking tired and worn out and – although fitted with door closers they don't close properly'*.
11. The Application confirms that they are the main entrance doors, so suffer heavy daily usage which has resulted in the wear and tear. The cost of the work is stated on the Application Form as being £13,785.00.
12. The Application goes on to explain that the Management Company is run by past and present leaseholders. The current annual maintenance charge is £600.00 per annum (having been reduced from £960.00 per annum last year) and there are sufficient funds in place to enable the work to proceed without additional payments from the Respondent Leaseholders.
13. The Application confirms that the Applicant seeks dispensation from all of the consultation requirements as it considers the work to be urgent. The Applicant also confirms that it has carried out some consultation with the leaseholders.
14. Briefly the timeline and emails from some leaseholders is as follows:
 - a) The Tribunal understands that there has been ongoing discussion regarding replacement of the doors for several years. On 25th March 2021 the Applicant made an Application for Dispensation to the Tribunal.
 - b) The Application included copies of three quotations;
 - I. **PJC**. A quote for £13,770.00 to replace all six doors. There is a further quote dated 12th April 2021 in the sum of £16,111.00 to include works to the intercom system. The Tribunal assumes that this includes any VAT.
 - II. **Security Doors Direct**. A quote for £8,894.00 plus VAT for three doors.
 - III. **Secure House**. A quote for £7,518.00 plus VAT for what is described as a 'Single Leaf Door'.
 - c) **3rd May 2021**: The Applicant wrote to the leaseholders confirming that an Application for Dispensation had been made to the Tribunal and sent copies of the quotations.
 - d) **7th May 2021**: An email objecting to the works was submitted by Timothy Baugh of 34b Wordsworth Close. The objection submitted that the quotations did not detail the style of doors or replacement of the intercom system although he believed that most of the leaseholders would approve if a proper consultation was undertaken. However, it was submitted that there was no urgent need to replace the doors and that if work was undertaken the reserve funds would be almost completely depleted. It was also submitted that as the original quotations were given in November 2020 there had been ample time for a full Section 20 consultation to have been undertaken.

- e) **14th May 2021:** An email objecting to the works was submitted by Marcia Morris of 40a Wordsworth Close. The objection submitted that the doors were worn but still serviceable and there were numerous general complaints regarding the way the management company was being run. The submission included copy emails to the management company. In particular however, it was submitted that Ms Morris had spoken to all three contractors who had indicated that costs had increased since the initial quotations were given.
 - f) **14th May 2021:** A copy of a letter from the management company to all leaseholders confirming that as some objections had been received, they were unable to proceed with the work without the Tribunal granting dispensation in accordance with the application dated 25 April 2021.
 - g) **16th May 2021:** an email of objection from Helen Johnson of 46a Wordsworth Close. The objection submitted that the work was not urgent. There were also general submissions and complaints regarding the way in which the management company was being run and the level of the service charge.
 - h) **16th May 2021:** an email from Neil Jones of 10 Wordsworth Close supporting the application and proposed works.
 - i) **16th May 2021:** An email from Graham McDonald of 46 Wordsworth Close supporting the application and proposed works.
 - j) **17th May 2021:** An email from Anne Barclay of 22a Wordsworth Close supporting the application and proposed works.
 - k) **17th May 2021:** An email from Norma Williams of 40b Wordsworth Close supporting the application and proposed works.
 - l) **17th May 2021:** An email from Mark Jackson of 34 Wordsworth Close supporting the application and proposed works.
 - m) **18th May 2021:** An email from Mrs B Rajpura of 10a Wordsworth Close supporting the application and proposed works.
15. The Tribunal infers from the submissions that if the full consultation process was to be undertaken, the delay could result in further additional expenditure and the possibility that the work would not be completed during the summer months.
16. The Tribunal notes that the Leaseholders have all been informed and had an opportunity to comment on the proposed works and costs. The only observations are those detailed in paragraph 14 (d-m) above.
17. For the avoidance of doubt the Tribunal does not have jurisdiction in this application to determine any matters relating to the management of the Management Company itself.

The Law

18. 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.
19. 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)).
20. 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

21. It is evident to the Tribunal that as discussions have been proceeding for several years the work cannot be described as being urgent although it is accepted that the doors will have continued to deteriorate over time with continual daily use.
22. However, it is also evident to the Tribunal that if the work is not now undertaken there is a real possibility that the cost will increase even further. This is evidenced by the two quotations from PJC. Whereas the second quotation includes additional work it is also apparent from the various submission that costs have increased due to inflation and the increasing costs of materials.
23. 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 could, in the Tribunal's view, be significantly prejudiced by further increased costs if the work is delayed.
24. The Tribunal is satisfied that the works to all three blocks appears comprehensive and that if properly completed will improve the external front and rear entrance doors which should remain serviceable for many years.
25. The Tribunal is also influenced by the fact that only three of the eighteen Respondents have made any submission opposing the application and that six have actively supported it. This leaves nine Respondents who have not commented and the Tribunal infers from this that they are not opposed to either the application or proposed works.
26. Accordingly, the Tribunal grants the dispensation requested under Section 20ZA and determines accordingly.
27. 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

28. 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

ADDRESS	NAME OF OWNER
RED BLOCK	
10 Wordsworth Close	Neil Jones
10a Wordsworth Close	Mrs B Rajpura
10b Wordsworth Close	Paul Dubberly
22 Wordsworth Close	Sam Collette
22a Wordsworth Close	Anne Barclay
22b Wordsworth Close	Phil Groves
BLUE BLOCK	
28 Wordsworth Close	Satish Sahni
28a Wordsworth Close	Tracy Cockayne
28b Wordsworth Close	Sharon Siddo
34 Wordsworth Close	Mark Jackson
34a Wordsworth Close	Marry Milligan
34b Wordsworth Close	Timothy Baugh
GREEN BLOCK	
40 Wordsworth Close	Karmah Boothe
40a Wordsworth Close	Marcia Morris
40b Wordsworth Close	Norma Williams
46 Wordsworth Close	Graham McDonald
46a Wordsworth Close	Helen Johnson
46b Wordsworth Close	Darpinder Bajwa