



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

Case Reference : **LON/00AG/LDC/2023/0048**

Property : **122-148 Bedford Court Mansions
London WC1B 3AH**

Applicant : **Woburn Estate Company Ltd and
Bedford Estates Nominees Ltd.**

Representative : **Bedford Estates Bloomsbury Ltd.**

Respondents : **Leaseholders of 32 flats at
122-148 Bedford Court Mansions**

Representative : **None**

Landlord : **Woburn Estate Company Ltd and
Bedford Estates Nominees Ltd.**

Type of Application : **S20ZA of the Landlord and Tenant
Act 1985 - dispensation of
consultation requirements**

Tribunal : **N. Martindale FRICS**

Hearing Centre : **10 Alfred Place London WC1E 7LR**

Date of Decision : **23 June 2023**

DECISION

Decision

1. The Tribunal grants dispensation from the requirements on the applicant to consult all leaseholders under S.20ZA of the Landlord and Tenant Act 1985, in respect of the qualifying works in this application, only. Dispensation is granted on terms, as set out at the conclusion.

Background

2. The landlord directly applied on 3 February 2023 to the Tribunal under S20ZA of the Landlord and Tenant Act 1985 (“the Act”). The application was for the dispensation from all or any of the consultation requirements contained in S20 of the Act.
3. The application related to the failure of the passenger lift. It is apparently the only lift serving the 6 floors to 32 flats in this Property, a purpose built mansion block. Access to upper floors is otherwise by internal staircase. It was understood that the landlord is able to recharge costs under the service charge provisions to all flats in the Property to all leaseholders.

Directions

4. Directions dated 15 March 2023 were issued by Valuer Chair Duncan Jagger MRICS, without an oral hearing. These directed for various actions to be undertaken by the applicant and respondents if any, to reply, within a timetable.
5. By 31 March 2023 the applicant was to send to each potential respondent a copy of the application, a brief statement of the scope of the works, of the cost for which dispensation from consultation was to be sought and of the Directions. They were display them in a prominent place in the Property and to confirm by email to the Tribunal by 7 April 2023 that these tasks had been completed.
6. By 14 April 2023 any respondent who objected to the application was to respond to the landlord, and the Tribunal, the former of which could reply briefly by 21 April 2023. By 28 April 2023 the applicant was prepare a bundle containing the application form, Directions, sample lease and copies of all correspondence with the Tribunal and between parties, with a statement explaining the reasons for the application, to the active respondent and Tribunal. They were also to send copies of any responses from the leaseholders to the Tribunal or confirm that none were received.
7. In the 7 day period following 8 May 2023 the Tribunal would determine the application based on these written representations. If a party wanted a hearing they should request same of the Tribunal by 28 April 2023. No

such request was received by the Tribunal. However no determination took place within 7 days of 8 May 2023, nor were any responses received.

8. The Tribunal determined the case on the paper bundle received from the applicant.

Applicant's Case

9. The Property appears to consist of a purpose built late Victorian Mansion Block in Central London. Accommodation is said to be arranged on 6 levels for 32 residential long leasehold flats. A sample lease was enclosed confirming that leaseholders could be required by their landlord to make service charge contributions for services and works to common parts.
10. In the application form at box 7 it confirms that these works are to be qualifying works and that they had been started. At Box 8 in reply to the question "*Do you know of any other cases involving either (a) related or similar issues about the management of this property; or (b) the same landlord or tenant or property as in this application ?*" They did not.
11. At box 9 the applicant was content for paper determination and applied for it, marking at box 10, but asked it could be dealt with by 'Standard Track'. There was no reason for urgency.
12. The application at box 'Grounds for seeking dispensation', was completed. At 1 "*REPAIRS TO PASSENGER LIFT. WORKS BEGAN ON 25/01/2023.*"
13. At 2. Describe the consultation that has been carried out or is proposed to. "*STAGE 1 LETTERS OF SECTION 20 CONSULTATION WAS ISSUED TO ALL LEASEHOLDERS 21.12.2022. TWO QUOTES WERE OBTAINED.*"
14. At 3, the applicant explained: "*THE BUILDING HAS SIX FLOORS, AND THEREFORE THE PROVISION OF THE PASSENGER LIFT IS AN ESSENTIAL SERVICE. IN ADDITION, THERE ARE SEVERAL ELDERLEY RESIDENTS IN THE BUILDING. THERE IS ALSO A NUMBER OF RESIDENTS WHO CLAIM PHYSICAL INCONVENIENCE DUE TO HAVING TO USE THE STAIRS.*"

Respondent's Case

15. The Tribunal did not receive any representations from the leaseholders either in support of or raising any objection, at any time during the application process.

The Law

16. S.18 (1) of the Act provides that a service charge is an amount payable by a tenant of a dwelling as part of or in addition to the rent, which is payable for services, repairs, maintenance, improvements or insurance or landlord's costs of management, and the whole or part of which varies or may vary according to the costs incurred by the landlord. S.20 provides for the limitation of service charges in the event that the statutory consultation requirements are not met. The consultation requirements apply where the works are qualifying works (as in this case) and only £250 can be recovered from a tenant in respect of such works unless the consultation requirements have either been complied with or dispensed with.

17. Dispensation is dealt with by S.20 ZA of the Act which provides:-
“Where an application is made to a leasehold valuation tribunal for a determination to dispense with all or any of the consultation requirements in relation to any qualifying works or qualifying long term agreement, the tribunal may make the determination if satisfied that it is reasonable to dispense with the requirements.”

18. The consultation requirements for qualifying works under qualifying long term agreements are set out in Schedule 3 of the Service Charges (Consultation Requirements) (England) Regulations 2003 as follows:-

1(1) The landlord shall give notice in writing of his intention to carry out qualifying works –

- (a) to each tenant; and**
- (b) where a recognised tenants' association represents some or all of the tenants, to the association.**

(2) The notice shall –

- (a) describe, in general terms, the works proposed to be carried out or specify the place and hours at which a description of the proposed works may be inspected;**
- (b) state the landlord's reasons for considering it necessary to carry out the proposed works;**
- (c) contain a statement of the total amount of the expenditure estimated by the landlord as likely to be incurred by him on and in connection with the proposed works;**
- (d) invite the making, in writing, of observations in relation to the proposed works or the landlord's estimated expenditure**
- (e) specify-**
 - (i) the address to which such observations may be sent;**

- (ii) that they must be delivered within the relevant period; and**
- (iii) the period on which the relevant period ends.**

2(1) where a notice under paragraph 1 specifies a place and hours for inspection-

- (a) the place and hours so specified must be reasonable; and**
- (b) a description of the proposed works must be available for inspection, free of charge, at that place and during those hours.**

(2) If facilities to enable copies to be taken are not made available at the times at which the description may be inspected, the landlord shall provide to any tenant, on request and free of charge, a copy of the description.

3. Where, within the relevant period, observations are made in relation to the proposed works or the landlord's estimated expenditure by any tenant or the recognised tenants' association, the landlord shall have regard to those observations.

4. Where the landlord receives observations to which (in accordance with paragraph 3) he is required to have regard, he shall, within 21 days of their receipt, by notice in writing to the person by whom the observations were made state his response to the observations.

Decision

19. The scheme of the provisions is designed to protect the interests of leaseholders and whether it is reasonable to dispense with any particular requirements in an individual case must be considered in relation to the scheme of the provisions and its purpose.
20. The Tribunal must have a cogent reason for dispensing with the consultation requirements, the purpose of which is that leaseholders who may ultimately pay the bill are fully aware of what works are being proposed, the cost thereof and have the opportunity to nominate contractors.
21. No representations to the application were received by the Tribunal either within or beyond the relevant submission date for such.
22. The applicant failed to fully comply with the Directions: By not confirming back to the Tribunal that it had contacted all leaseholders by the date specified before it prepared its bundle: By not confirming back to the Tribunal that it had not received any responses. The Tribunal received no responses from leaseholders directly. Although these failures were not

- significant in this case the applicant should take care to comply fully with Directions in future. Compliance may be critical to grant of dispensation and if so the “terms” of that grant and the ability to recover beyond £250 in service charge from each leaseholder in respect of the works.
23. If there were costs associated with a prior survey and any associated work carried out prior to this application, (but, not subject to it), these are not covered by this dispensation as it was not sought.
 24. The terms of this dispensation are:
 25. This dispensation does not determine what service charges are reasonable and payable by any leaseholder under the lease, as a service charge for these capital works, just the cap on the cost at the figure in paragraph 26.
 26. A copy of each contractor’s brief specification, price or other correspondence was supplied to the Tribunal by the applicant. The second contractor Murray Lift Group Ltd., the one quoting the higher price of £11,495.50 plus VAT was appointed by the applicant, on the basis that this was also now the new term contractor for general maintenance to the lift. The other contractor was the former contractor whose term contract had not long been terminated earlier by the applicant.
 27. This dispensation does not extend to any other works at the Property other than those named in the application. This is because they do not form part of this application.
 28. **In making its determination of this application, it does not concern the issue of whether any service charge costs are reasonable or indeed payable by the leaseholders. The Tribunal’s determination is limited to this application for dispensation of consultation requirements under S20ZA of the Act; in this case, on terms.**

N Martindale FRICS

23 June 2023