



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

Case reference : **LON/00BC/LDC/2023/0015**

Property : **1100 properties across the London Borough of Redbridge as listed on the application**

Applicant : **London Borough of Redbridge**

Representative : **Sharpe Pritchard LLP Solicitors
Reference no. AD/104049/92**

Respondents : **The Lessees and Residents' Associations as named on the Application**

Representative : **N/A**

Type of application : **Application for dispensation to consult – section 20ZA of the Landlord and Tenant Act 1985**

Tribunal : **Judge Tagliavini
Mr R Waterhouse FRICS**

Date of decision : **28 June 2023**

DECISION

The tribunal's summary decision

- (1.) The tribunal refuses to grant the applicant dispensation in respect of the proposed Qualifying Works to replace the FEDs across its property portfolio as specified in its application for dispensation from consultation pursuant to section 20ZA of the Landlord and Tenant Act 1985.
-

The application

1. This is an application made pursuant to section 20ZA of the Landlord and Tenant Act 1985 ('the 1985 Act') seeking dispensation for the consultation requirements in respect of the works required to remedy fire safety issues that have been identified.

Background

2. The landlord/applicant has applied for dispensation from the statutory consultation requirements in respect of the inspection by the Applicant's agents of the existing front entrance doors ("FEDs") at each of the listed leasehold properties within the residential buildings over 11 metres in height and, if the existing FEDs do not comply with the current fire safety standard, the removal and disposal of the existing FEDs and the installation of fire doors meeting current fire safety standards as a replacement FED.
3. Following amendments made to the Regulatory Reform (Fire Safety) Order 2005 ("FSO") in May of this year, and following receipt by the Applicant of a Regulatory Notice from the Social Housing Regulator dated 28 September 2022, the applicant is required to work with the Regulator to remedy the identified safety failing and carry out the Qualifying Works (as described above) in order to discharge its duties as the "Responsible Person" under the FSO. Consequently, the applicant is required to satisfy the Social Housing Regulator that it has delivered the requirements of the FSO to make safe its multi-occupied residential buildings over 11 metres in height.
4. The Applicant has now obtained estimates from four contractors who have all provided the same price range for the works to be undertaken as being between £1,642.85 and £5,500.00. The cost quoted includes both survey of the existing FED at each of the leasehold properties and installation of a new FED as required. The final cost for the replacement FED will be within the above price range but will depend on several factors, including the final design of the replacement door, the extent of works required to the surrounding structure of the doorframe to enable installation and any request for weekend installation. If following survey of the FEDs, any door is confirmed as already being a fire safety compliant door then only the cost for the survey will be charged; this cost is currently estimated at £85.00. Once the survey has been completed, and if a

replacement FED is required, the contractor will provide a breakdown of the estimated cost for the replacement FED.

5. The applicant says that the qualifying works have not yet been carried out but are planned to be carried out as soon as possible due to the urgency of ensuring both that the FEDS, which separate domestic premises and common or communal parts of the Applicant's Buildings, are legally compliant with fire safety regulations and to urgently address fire risk arising from non-compliant FEDs.
6. The applicant has commenced a consultation with the leaseholders in respect of the qualifying works in accordance with section 20 of the Landlord and Tenant Act 1985 and the Service Charge (Consultation Requirements)(England) Regulations 2003 and a Notice of Intention dated 12 January 2023 informing the leaseholders of its intention to carry out Qualifying Works as the applicant proposed to run the section 20 consultation procedure in tandem with the application for dispensation from the consultation requirements until, and if, the dispensation is granted by the Tribunal.

The hearing

7. The application was determined by the tribunal on the papers as no party requested an oral hearing. In making its decision the tribunal took into account the information provided by the applicant by way of a bundle comprising 571 pages which included the responses from lessees objecting to this application.
8. In its Statement of Case dated 21 April 2023 the applicant stated the Social Housing Regulator had served a Regulatory Notice in September 20223 which informed the applicant it was failing to comply with statutory health and safety requirements regarding, inter alia, fire safety and was in breach of the Home Standard. The Regulatory Notice served made it clear that, to avoid enforcement action, the applicant had to take immediate action to remedy the breach of the Home Standard by putting in place, and continuing, a programme to rectify the failures.
9. These measures identified to remedy the failings were to include the replacement of the FEDs in its multi-occupied residential blocks to ensure the fire integrity of the common parts as a means of escape.
10. The applicant also stated that as from 23 January 2023, there is a legal requirement, under the Fire Safety (England) Regulations 2022, for Responsible Persons under the FSO 2005, for all residential buildings with at least two dwellings in England over 11 metres in height, to (i) undertake quarterly checks of all fire doors (including self-closing devices) in the common parts of their multi-occupied residential buildings; and (ii) undertake – on a best endeavours basis – annual checks of all flat entrance doors (including self-closing devices) that lead onto those buildings' common parts.
11. The applicant also state it is however allowing its leaseholders to opt out of the applicant's own contractor undertaking the works to replace the FEDs and allowing its leaseholders to arrange for these works to be undertaken by the

leaseholders' own contractors and at the leaseholders' own cost. If any leaseholders choose to proceed in this way, they are required to notify the applicant of the identity of the door manufacturer, supplier and installer and then provide the applicant's home ownership team with appropriate certificates of installation and fire safety compliance. The leaseholders must also notify the applicant of when the works will be undertaken, failing which the applicant will undertake the Qualifying Works.

12. A number of lessees objected to this application citing reasons that included a fire safety compliant FED had already been fitted; fire safety risk to building is low; dispensation application is 'unsafe' and full consultation should be required; inappropriate works proposed; applicant has been aware of problems for years and has failed to act; no real urgency for works and building less than 11 metres high.

The tribunal's decision

13. The tribunal refuses to grant the applicant dispensation in respect of the proposed Qualifying Works to replace the FEDs across its property portfolio.

Reasons for the tribunal's decision

14. The tribunal acknowledges the importance of the proposed qualifying works and their need to be carried out (subject to certain exceptions). However, the tribunal finds that although the works are required by the Regulator, the applicant has not identified any real urgency to their being carried out. In particular, the tribunal finds the Regulator has not identified or referred to the works being required 'urgently' when it states in the Regulatory Findings:

The regulator has concluded that: a) London Borough of Redbridge (LB Redbridge) has breached part 1.2 of the Home Standard; and b) As a consequence of this breach, there was the potential for serious detriment to LB Redbridge's tenants. The regulator will work with LB Redbridge as it seeks to remedy this breach.

And

LB Redbridge has started to put in place a programme to rectify these failures and has assured the regulator that it is taking action to remedy the breach of standard. The regulator will therefore not take enforcement action at this stage. The regulator will work with LB Redbridge as it continues to address the issues which have led to this situation, including ongoing monitoring of how it delivers its programme.

15. Further, the tribunal finds that if the section 20 consultation process has been followed in tandem with this application, as has been stated by the applicant, the consultation requirements would have either have been completed or nearly

completed by the date of this decision. The tribunal finds lessees were informed that on service of the Notice of Intention:

‘Observations must be received within the consultation period of 30 days from the date of this notice. The consultation period will end on 14th February 2023.’

16. The tribunal notes the applicant has already sourced possible contractors to carry out the works and finds it difficult to understand the need for this application for dispensation on the basis of urgency although it accepts that works are required. Therefore, in all the circumstances, the application for dispensation from consultation is refused

Name: Judge Tagliavini

Date: 28 June 2023

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).

