



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

Case reference : LON/00AP/LDC/2022/0145

Property : 1-23 Highgate Heights, 77 Shepherds Hill, London N6 5RF

Applicant : Highgate Heights Ltd

Representative : Emily Smith, D&G Block Management

Respondents : The tenants of flats 1 to 23 Highgate Heights

Representative : No appearance

Type of application : Application for a dispensation from the consultation requirements in respect of major works

Tribunal : Judge Adrian Jack

Date of paper determination : 15 November 2022

DECISION

Covid-19 pandemic:

Description of hearing: This matter was determined on paper. The tenants were served with the application but did not participate.

The application, the property, the works and the law

1. The applicant by an application dated 4th August 2022 applies for dispensation pursuant to section 20ZA of the Landlord and Tenant Act 1985 in respect of major works to the roof of Highgate Heights. The Tribunal gave directions on 28th September 2022. These included a provision for any tenant to respond to the Tribunal by 19th October 2022 with a statement in response to the landlord's application. No tenant has responded.

2. The property dates from about 1961. It is a purpose-built block of flats comprising a lower ground floor, a ground floor and five upper floors. There are 23 flats. (The application states in its description of the block that there are only 22 flats, but the list of tenants shows 23 flats.) The property has a flat roof.
3. In 2021 the landlord carried out a consultation with the tenants under section 20 of the Landlord and Tenant Act 1985 in respect of major external decoration work. These works involved the erection of scaffolding around the whole building. During the course of the external decoration works, the landlord's surveyor identified that the flat roof of the property was in much worse condition than had been anticipated. It had reached the end of its useful life.
4. Two quotations were obtained for repairing the roof with a liquid roofing system, Proteus-Pro, and consequential matters such as capping, cladding and flashing repairs. The landlord took the cheaper quotation at £40,470 plus VAT, so that the scaffolding already erected could be used for the roof works. The works to the roof proceeded and may well now be complete.
5. By notices of 17th and 18th January 2022 the landlord attempted a limited consultation exercise with the tenants in respect of the roof works. No replies were received.
6. Section 20ZA(1) of the 1985 Act provides:

“Where an application is made to the appropriate tribunal [in England, this 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.”
7. An important consideration is always whether granting dispensation will cause prejudice to the tenants. In my judgment, on the facts of this case there is no prejudice to the tenants. On the contrary, if the works had not proceeded in the way they have done, the scaffolding already erected could not have been used. The cost of the roofing works would probably have been greater.
8. In my judgment it is reasonable to dispense with the consultation requirements in this case.
9. This dispensation does not mean that the tenants cannot challenge the cost or quality of the work done. It simply dispenses with the consultation requirement.
10. There is no application in respect of the fees for applying to the Tribunal, so I make no order in respect of such fees.

DETERMINATION

- a) The Tribunal grants a dispensation pursuant to section 20ZA of the Landlord and Tenant Act 1985 in respect of the works the subject of the application.
- b) The Tribunal makes no order in respect of the fees payable to the Tribunal.

Name: Judge Adrian Jack

Date: 15 November 2022