FIRST-TIER TRIBUNAL PROPERTY CHAMBER (RESIDENTIAL PROPERTY)

Case reference	:	LON/00BF/LDC/2023/0244
Property	:	Leith Tower, Sutton Vale, Sutton, SM2 5BY
Applicant	:	Leith Towers Management Limited
Representative	:	Kinleigh Folkard & Hayward (Daniel Kempner)
Respondents	:	The Leaseholders at Leith Tower
Type of application	:	Dispensation with Consultation Requirements under section 20ZA Landlord and Tenant Act 1985
Tribunal member	:	Judge Robert Latham
Venue	:	10 Alfred Place, London WC1E 7LR
Date of decision	:	24 June 2024

DECISION

The Tribunal grants this application to dispense retrospectively with the consultation requirements imposed by section 20 of the Landlord and Tenant Act 1985 without condition in respect of urgent works to replace the pumps that supply cold water to the building.

The Application

1. On 2 October 2023, the Applicant applied for retrospective dispensation from the statutory duty to consult in respect of urgent works to replace the pumps that supply cold water to the building.

2. Leith Tower is a purpose built block of flats comprising 65 private residential flats in an 11 floor block. The Applicants assert that the failure of two cold water pumps has resulted in a lack of water pressure to the property. On 12 September 2023, the Applicant notified the Respondents of the failure of the pumps and the need to replace them. Two competitive quotes were obtained. On 6 October 2023, the Applicant serve the Notice of Estimates. Two estimates had been obtained in the sums of £20,160 and £24,118 (inc VAT) to which a supervision fee of 1% would be added. The Applicant notified the Respondents that this application would be made because of the urgency of the works. The Applicant accepted the lowest estimate and the works have been put in hand. On 17 October 2023, the Applicant notified the Respondents that the works had been completed and that the cost of the works would be met from the reserve fund. The Applicant also provided a copy of their application to this tribunal.

3. On 18 October 2023, the Tribunal issued Directions. The Directions stated that the Tribunal would determine the application on the papers, unless any party requested an oral hearing. No party has done so.

4. By 26 October 2023, the Applicant was directed to send to the leaseholders (and any residential sublessees) and any recognised residents' association, by email, hand delivery or first-class post: (i) copies of the application form (excluding any list of respondents' names and addresses) unless already sent by the applicant to the leaseholder/sublessee; (ii) if not already provided in the application, a brief statement to explain the reasons for the application; and (iii) the directions. The Applicant was further directed to display a copy of these in a prominent place in the common parts of the property. On 2 November 2023, the Applicant notified the Tribunal that it had complied with this Direction.

5. By 15 November 2023, any leaseholder who opposed the application was directed to complete a Reply Form which was attached to the Directions and send it both to the Tribunal and to the Applicant. The leaseholder was further directed to send the Applicant a statement in response to the application. No leaseholder has returned a completed Reply Form opposing the application.

6. The Applicant has provided a Bundle of Documents (85 pages) in support of the application. The Applicant has provided a copy of the lease for 6 Leith Towers.

7. Section 20ZA (1) of the Act provides:

> "Where an application is made to the appropriate 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."

8. The only issue which this Tribunal has been required to determine is whether or not it is reasonable to dispense with the statutory consultation requirements. This application does not concern the issue of whether any service charge costs will be reasonable or payable.

9. The Tribunal is satisfied that it is reasonable to grant retrospective dispensation from the statutory consultation requirements. This is justified by the urgent need for the works. There is no suggestion that any prejudice has arisen. In the circumstances, it is appropriate to grant dispensation without any conditions.

10. The Directions make provision for the service of the Tribunal's decision. The Tribunal will email a copy of its decision to the Applicant. The Applicant is responsible for serving a copy of the Tribunal's decision on the Respondents.

Judge Robert Latham
24 June 2024

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 **by e-mail** 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).