



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

Case Reference : **CAM/00MC/LDC/2024/0019**

**HMCTS code
(paper, video, audio)** : **P: PAPERREMOTE**

Property : **Riverside House, Fobney Street,
Reading RG1 6BH**

Applicant : **FirstPort Property Services Limited**

Respondents : **The leaseholders named in the
application**

Type of application : **For dispensation from consultation
requirements - Section 20ZA of the
Landlord and Tenant Act 1985**

Tribunal member : **Judge Wayte**

Date of decision : **18 June 2024**

DECISION

The tribunal's decision

The tribunal determines under section 20ZA of the Landlord and Tenant Act 1985 to dispense with all the consultation requirements in relation to the works described in the application; namely, the urgent replacement of the boosted cold water pump set for the property.

The application

1. The Applicant applied for dispensation from the statutory consultation requirements in respect of qualifying works to replace the boosted cold water pump set for this seven storey block of 77 residential apartments. A survey had identified 16 issues in total with a risk of total failure and significant disruption to the leaseholders' water supply. The Applicant had instructed London Water Services to carry out the work at a quote of £15,900 excluding VAT.
2. The relevant contributions of the Respondents through the service charge towards the costs of these works would potentially be limited to a fixed sum unless the statutory consultation requirements, prescribed by section 20 of the Landlord and Tenant Act 1985 (the "**1985 Act**") and the Service Charges (Consultation etc) (England) Regulations 2003:
 - (i) were complied with; or
 - (ii) are dispensed with by the tribunal.
3. The Applicant seeks a determination from the tribunal, under section 20ZA of the 1985 Act, to retrospectively dispense with the consultation requirements. The tribunal has jurisdiction to grant such dispensation if satisfied that it is reasonable to do so.
4. In this application, the only issue for the tribunal is whether it is satisfied that it is reasonable to dispense with the consultation requirements. **This application does not concern the issue of whether any service charge costs of the relevant works will be reasonable or payable, or what proportion is payable.**

The property, the parties and the leases

5. The Applicant is the leasehold proprietor of the "Common Parts and the Grounds" of the Property, which "*means the whole of the Development other than the Apartments together with all fixtures and fittings and equipment therein*".
6. Copies of the leases were provided which establishes that it is the Applicant's responsibility to maintain and as necessary reinstate or renew the Service Installations forming part of the internal common parts of the Building. For the avoidance of doubt, "Service Installations" as defined in the sample lease provided specifically refers to the "cold water booster pumps".

Procedural history

7. On 29 April 2024, the tribunal gave case management directions. The directions included a reply form for any respondent who objected to the application to return to the tribunal and the Applicant by 27 May 2024, indicating whether they wished to have an oral hearing. The directions provided that this matter would be determined on or after 10 June 2024 based on the documents, without a hearing, unless any party requested one.
8. The directions required the Applicant to serve the application and directions on the respondents. On 13 May 2024, the Applicant's representative confirmed that she had emailed or posted the Applicant's case and a copy of the directions to the leaseholders. That letter was amended by a letter dated 29 May 2024 which admitted that one leaseholder was omitted but had been served with the case that day. To date, no leaseholder has responded and no party has requested a hearing. On a review of the bundle, I considered that the application could be dealt with in accordance with the overriding objective on the papers alone.

The Applicant's case

9. The Applicant confirmed in their Statement of Case that Rock Compliance has been instructed by them to carry out a water pump survey on the current condition of the boosted cold water pump set following reports of a leak emanating from the pump room into the car park. A report was produced by Rock Compliance on 31 August 2023, identifying 16 issues in total and a risk of total failure. A full pump replacement for two of the pumps and other works were advised and the Applicant obtained two quotes for the work, accepting the quote from London Water Services for £15,900 excluding VAT. This was not the cheapest quote as Rock's own quote of £13,922 excluding VAT was defective, proposing only the replacement of two of the pumps and not the work required to the third.
10. On 1 February 2024, the Applicant sent a letter to all the leaseholders setting out the need for the works and referencing the quotes. They instructed London Water Services to carry out the works which were due to be completed in or about March 2024. The application for dispensation was made on 21 March 2024.

The Respondents' position

11. As noted above, the directions provided for any Respondent who wished to oppose the application for dispensation to complete the reply form attached to the directions and send it to the tribunal and the Applicant. No responses were received by the Applicant or the tribunal. In the circumstances, the tribunal concluded that the application was unopposed.

The tribunal's decision

12. In the circumstances, based on the information provided by the Applicant (as summarised above), I am satisfied that it is reasonable to dispense with the statutory consultation requirements in relation to the relevant works. The works were not in fact carried out until over 6 months after the defects were discovered but urgency is not a requirement of the jurisdiction.
13. **As noted above, this decision does not determine whether the cost of these works was reasonable or payable under the leases, or what proportion is payable under the lease(s), only whether the consultation requirements should be dispensed with in respect of them.**
14. There was no application to the tribunal for an order under section 20C of the 1985 Act.

Name: Judge Wayte

Date: 18 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 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).



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3. The Applicant seeks a determination from the tribunal, under section 20ZA of the 1985 Act, to retrospectively dispense with the consultation requirements. The tribunal has jurisdiction to grant such dispensation if satisfied that it is reasonable to do so.
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