

9700



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

Case Reference : **CHI/00HY/LSC/2013/0003**

Property : **20/20A Bedwin Street, Salisbury, SP1
3UT**

Applicant : **20/20A Bedwin Street
(Salisbury) Management Ltd**

Representative : **Mr W C Dickinson**

Respondent : **Anne Pritchard (and others)**

Representative : **-**

Type of Application : **Consultation dispensation
application : section 20ZA of the
Landlord and Tenant Act 1985 ("the
1985 Act")**

Tribunal Members : **Judge P R Boardman (Chairman) and
Mr A J Mellery-Pratt FRICS**

**Date and venue of
Hearing** : **28 November 2013
Mercure Salisbury White Hart Hotel,
1 St John Street, Salisbury, SP1 2SD**

Date of Decision : **28 November 2013**

DECISION

© CROWN COPYRIGHT 2013

Introduction

1. This is an application for dispensation with the consultation requirements referred to in section 20 of the 1985 Act
2. In an application dated 26 April 2013, as explained and amplified in the Applicant's submissions dated 16 October 2013 and 24 October 2013, the grounds of the application were stated to be as follows :
 - a. the Property was a purpose built 4-storey block of six residential flats constructed in 2003
 - b. the Applicant was the landlord, being a residents management company, whose shares were owned by the six leaseholders
 - c. the Respondents were the six leaseholders, namely Anne Pritchard of Flat 1, Patricia Osborne of Flat 2, Helen Bray of Flat 3, William and Judith Dickinson of Flat 4, Matthew and Charlotte Andrews of Flat 5, and Lloyd Molton of Flat 6
 - d. the application related to the general maintenance activities for 2012, which had been budgeted in 2011, and the general maintenance activities for 2013, which had been budgeted in 2012
 - e. none of those activities had been the subject of the Tribunal's decision dated 23 May 2013 in relation to another application by the Applicant under case reference CHI/00HY/LSC/2013/0003
 - f. the Applicant had not carried out the consultation procedure referred to in section 20 of the 1985 Act in relation to the works, and was now seeking dispensation
 - g. the audited accounts for the financial year ending 31 December 2012 showed the sum of £1235 actually spent on repairs and maintenance, and £1191 actually spent on additional communal facilities; the total of these 2 sums was £2426; one leaseholder paid a service charge of 27.8%, making his share £674, which exceeded the section 20 limit of £250
 - h. the budget for the financial year ending 31 December 2013 included a provision for general maintenance of £500, in respect of which no section 20 consultation had been carried out; although section 20 consultation had been carried out in relation to other items in the budget, the Applicant understood that section consultation was also required for the £500 following the decision in **Phillips v Francis**; the accounts for the year ending 31 December 2013 had not yet been prepared, so that the Applicant did not know the exact sum spent on maintenance works

Response by Mr Richard Molton dated 1 July 2013

3. Mr Molton stated that he was responding on behalf of his son, Lloyd Molton, who was responsible for 27.8% of the cost of any service charge item, and who opposed the application

Inspection

4. The Tribunal inspected the exterior of the property, the internal lobbies

and staircase, on the morning of the hearing. Also present was Mr Dickinson. The Tribunal found the property to correspond with the description in the application. The Tribunal noted a black keypad on the entry system plate by the front door, and two built-in postboxes on the lobby wall of each of the first 3 floors

The hearing

5. Mr Dickinson said that the 3 items in respect of which the Applicant was seeking dispensation from the section 20 consultation requirements were as follows :
 - a. the works which had cost £1235, and which were shown as “repairs and maintenance” in the service charge account for the year ending 31 December 2012, copied at page 87 of the Applicant’s bundle submitted with the Applicant’s letter dated 24 October 2013, and which were itemised in the notes to the accounts at page 90 of the bundle, and which included the black keypad
 - b. the works which had cost £1191, and which were shown as “improvements – post boxes” in the service charge account for the year ending 31 December 2012, copied at page 87 of the Applicant’s bundle
 - c. the budgeted figure of £500 for “general maintenance”, which was shown in the service charge budget for the year ending 31 December 2013, and which was shown in the service charge schedule for 2013 dated 5 December 2012, copied with the bundle attached to the Applicant’s letter dated 29 June 2013
6. Mr Molton said that he had not brought any documents to the hearing, but was sure that he had seen everything submitted by the Applicant. The Tribunal lent him the three documents referred to by Mr Dickinson so that he could refer to them during the hearing
7. Mr Dickinson said that the service charge account for the year ending 31 December 2012 had been approved by each of the Respondents, and the service charge budget for the year ending 31 December 2013 had been approved by each of the Respondents at the Applicant company’s annual general meeting on about 22 September 2012, and that the service charge schedule for 2013 dated 5 December 2012 was confirmation of the budget figures agreed
8. The Applicant had not realised that it needed to carry out the section 20 consultation exercise in relation to the three items now before the Tribunal and was now seeking dispensation. Mr Dickinson said that Mr Molton was the only Respondent who was opposing the current dispensation application. Mr Dickinson and all the leaseholders of the other 4 flats were supporting the application. Mr Dickinson produced a bundle of e-mails indicating their support
9. The Tribunal asked Mr Molton whether Mr Lloyd Molton was opposing the application. Mr Molton initially said that he was, on the grounds

that Mr Lloyd Molton had not been properly consulted. However, when asked for the grounds of his opposition, bearing in mind that the Applicant had conceded as part of its current application that none of the leaseholders had been properly consulted, Mr Molton said that Mr Lloyd Molton was not after all opposing the application. The Tribunal offered to adjourn the hearing for a short time to enable Mr Molton to consider the matter further, but Mr Molton said that he was quite satisfied that Mr Lloyd Molton was no longer opposing the application, and that he did not need to consider the matter any further

10. The Tribunal indicated that it was therefore proposing to make a determination dispensing with all the section 20 consultation requirements in relation to each of the 3 items before the Tribunal. Mr Molton said that he was happy for the Tribunal to do so

The Tribunal's decision

11. The Tribunal finds that it is reasonable to dispense with all the consultation requirements in relation to the 3 items before the Tribunal, and accordingly determines that the section 20 consultation requirements in relation to those items should be dispensed with unconditionally

Appeals

12. A person wishing to appeal against this decision must seek permission to do so by making written application to the First-tier Tribunal at the Regional office which has been dealing with the case
13. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision
14. If the person wishing to appeal does not comply with the 28-day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28-day time limit; the Tribunal will then decide whether to extend time or not to admit the application for permission to appeal
15. The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result which the person is seeking

Dated 28 November 2013

.....
Judge P R Boardman
(Chairman)