



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

Case Reference	: CHI/43UD/LDC/2020/0078
Property	: Eversleigh and Newlands, Buckingham Close, Guildford, Surrey GU1 1TR
Applicant	: Eversleigh and Newlands Management Limited
Representative	: Clarke Gammon Estates Ltd
Respondents	: 24 Leaseholders
Representative	: -
Type of Application	: To dispense with the requirement to consult lessees about major works
Tribunal Member(s)	: Judge Tildesley OBE
Date and Venue of Hearing	: Determination on Papers
Date of Decision	: 21 December 2020

DECISION

The Application

1. The Applicant seeks dispensation under Section 20ZA of the Landlord and Tenant Act 1985 from the consultation requirements imposed on the landlord by Section 20 of the 1985 Act.
2. The Applicant explains that the development consists of two blocks of 12 flats. The lift in the block known as Eversleigh requires essential left maintenance works to be undertaken. Without the same being undertaken residents may be adversely affected. A first stage notice was served and thereafter the managing agents have undertaken informal consultation including providing copies of estimates received. The application refers to the works being undertaken in October 2020.
3. The Application for dispensation was received on 9 October 2020.
4. On 15 October 2020 the Tribunal directed the Applicant to serve the application and directions on the leaseholders which was done on 22 October 2020.
5. The Tribunal directed that the Application would be heard on the papers unless a party requested an oral hearing. No party made such a request.
6. The Tribunal required the leaseholders to return a pro-forma to the Tribunal and the Applicant by 12 November 2020 indicating whether they agreed or disagreed with the application.
7. Eighteen leaseholders returned the pro-forma stating their agreement to the application.
8. The Applicant was obliged to provide a hearing bundle by 26 November 2020. Unfortunately the Applicant failed to do this. Judge Tildesley extended the time for provision of the hearing bundle until 15 December 2020 which the Applicant met.

Determination

9. The Tribunal is satisfied from the Application and the documents that the repairs to the passenger lift were essential and urgent particularly as some residents with impaired mobility relied on the lift to gain access to their property.
10. In view of the urgency of the works the Tribunal is satisfied that the Applicant did not have the time to carry out full consultation as required by section 20 of the 1985 Act. The Applicant, however, issued the notice of intention to carry out the works and obtained quotations from two contractors. The Applicant chose the lowest quotation. The Tribunal notes that all leaseholders who responded were in favour of the Application.

11. The Tribunal is, therefore, satisfied that the leaseholders would suffer no relevant prejudice if dispensation from consultation was granted.
12. **The Tribunal, therefore, dispenses with the consultation requirements in respect of the repair to the passenger lift.**
13. The Tribunal's decision is confined to the dispensation from the consultation requirements in respect of the works. The Tribunal has made no determination on whether the costs of those works are reasonable or payable. If a leaseholder wishes to challenge the reasonableness of those costs, then a separate application under section 27A of the Landlord and Tenant Act 1985 would have to be made.
14. The Tribunal directs the Applicant to inform the leaseholders of the Tribunal's decision and to display the written decision on a noticeboard in the common areas.

RIGHTS OF APPEAL

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application by email to rpsouthern@justice.gov.uk to the First-tier Tribunal at the Regional office which has been dealing with the case.
2. 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.
3. 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 allow the application for permission to appeal to proceed.
4. 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 the party making the application is seeking.

Due to the Covid 19 pandemic, communications to the Tribunal MUST be made by email to rpsouthern@justice.gov.uk. All communications must clearly state the Case Number and address of the premises.