



FIRST-TIER TRIBUNAL PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case Reference : CHI/43UF/LDC/2021/0001

Property : Flats 1-12 Diamond Place, 41 Croydon Road,
Reigate, Surrey RH2 0NE

Applicants : Diamond Place Residents Ltd

Representative : HML Group

Respondent : The 12 leaseholders

Representative : ---

Type of Application: Dispensation application - Section 20ZA Landlord
and Tenant Act 1985 (“the 1985 Act”)

Tribunal Member : Judge P J Barber

Date of Decision : 5 March 2021

DECISION

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Decision

- (1) The determination of the Tribunal, in accordance with the provisions of Section 20ZA of the 1985 Act, is to dispense with all consultation requirements in relation to the subject qualifying work at the Property, namely the installation of a pump station to the underground car park to avoid flooding at the Property.

Reasons

INTRODUCTION

1. The application received by the Tribunal was dated 10 December 2020 and was for a determination whether to dispense with the consultation requirements arising under Section 20 of the 1985 Act, in relation to the installation of a pump station at the underground car park to the Property, to avoid a recurrence of flooding problems.
2. Directions were issued on 5 January 2021, providing for the matter to be determined by way of a paper determination.
3. The Applicants have provided an electronic bundle of documents to the Tribunal which included copies variously, of the application, a sample lease being the Lease of Flat 7 dated 5 May 2004, the directions, and certain forms and/or responses made by the Respondents; certain other technical documents were also included.
4. Due to Covid 19 restrictions, no inspection was carried out in respect of the Property.

THE LAW

5. Section 20ZA(1) of the 1985 Act provides that :-

“(1) 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.

WRITTEN REPRESENTATIONS

6. The directions issued in this matter required the Applicant to send a copy of the application and the directions to each of the leaseholders by 11 January 2021. The directions included a form for leaseholders to complete and return to the Tribunal by 18 January 2021, to indicate whether or not they opposed the application. The electronic bundle includes a number of forms and/or responses made by some of the Respondents, in each case agreeing to the application. The directions further stated that the application was to stand as the Applicant`s case.
7. The Applicant describes the Property as purpose-built blocks, made up of two blocks of six flats in each block, including an underground car park, with a fairly steep drive from the road leading to visitors parking, and then bending left into the underground car park.
8. The Applicant indicated in the application that the underground car park had been flooded four times, in December 2019, February 2020, March 2020 and in November 2020 and that several cars had been written off. The application stated that a pump station needed to be installed to ensure that the garage is not flooded again, and that although some one-way valves had been inserted in the chamber in

the driveway, these would not be enough to prevent the risk of further flooding in the future. The application indicated that there had been 20,000 gallons of water tanker transported away following each flood, and that the insurers had put a £10,000 excess on the policy, meaning that if a flood recurs, leaseholders would have to fund £7,000 to get the water tanker transported away. The cause of the flooding was stated to be a water course on adjoining land owned by Surrey County Council, and further stated that in heavy rain, the culvert rises beyond the height of the pipe from the Property`s chamber, resulting in culvert water flowing into such chamber and, due to pressure, flowing back into the garage. The Applicant says that Thames Water has stated that the liability rests with Surrey County Council and that although insurers had asked solicitors to look into recovering their costs, no liability had so far been accepted.

9. The Applicant stated that the leaseholders are aware of the issues in regard to flooding and that a letter had been sent to them, and a virtual meeting held. The Applicant stated that the Leaseholders had agreed the fitting of one-way valves, and it added that a pump is needed to pump out any water through a new channel dug into the drive and out via an outlet pipe.

CONSIDERATION

10. The Tribunal, has taken into account all the case papers in the bundle.
11. The issue for determination under Section 20ZA of the 1985 Act, is simply as to whether or not it is satisfied that it is reasonable to dispense with all or any of the consultation requirements of Section 20 of the 1985 Act.
12. The Applicant describes how the underground car park had flooded on four separate occasions within a one-year period, resulting in damage to vehicles and large quantities of water having to be tanker transported away at significant cost; consequently, a pump needed to be installed to avoid a recurrence of the flooding problem. The Applicant was required to serve all the leaseholders with copies of the application and the directions; the directions allowed for any leaseholder who was opposed to the application, to make representations; none had been received. The Tribunal notes the absence of objections to the application by any of the leaseholders, and takes into account the statement by the Applicant that the work as required for urgent reasons to prevent further flooding of the underground car park.
13. The Tribunal is satisfied that it would be reasonable to dispense with all consultation requirements in relation specifically to the installation of a pump station, given the absence of objections and also the apparent urgent need for such works, so as to prevent future flooding. The Tribunal accordingly determines that all the consultation requirements arising under Section 20 of the 1985 Act in relation to the installation of a pump station to obviate flooding, are dispensed with.
14. In making this determination, the Tribunal makes it clear to the parties that it is concerned only with whether or not it is reasonable to dispense with statutory consultation requirements, and that such determination does not concern the separate issue as to whether any service charges arising will be reasonable or payable, and which the leaseholders will remain entitled to challenge if they may be so minded, at the relevant time.

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 to the First-tier Tribunal at the Regional office which has been dealing with the case by email at rpsouthern@justice.gov.uk.
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.