



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

Case Reference : CHI/23UB/LDC/2015/0037

Property : 14 St. Stephens Road, Cheltenham,
Gloucestershire GL51 3AA

Applicant : Idris Davies Limited

Representative : Coupe Property Consultants Limited

Respondent : Miss Polly Rendall

Representative : Midwinters Solicitors

Type of Application : Application under Section 20C of the
Landlord and Tenant Act 1985

Tribunal Member(s) : Judge D. R. Whitney

Date of Determination : 20th November 2015

DECISION

BACKGROUND

1. Idris Davies Limited, the Applicant, is the owner of the freehold of 14 St. Stephens Road, Cheltenham, Gloucestershire GL51 5AA ("the Property"). The Property is a four storey townhouse which has been converted into five flats. Each of the leaseholders is a Respondent.
2. The Applicant issued an application dated 28th August 2015 seeking a dispensation from the consultation requirements under Section 20 of the Landlord and Tenant Act 1985.
3. Miss Polly Rendall leaseholder of Flat 4 at the Property, responded to the application dated 30th September 2015. She did not explicitly oppose the Applicants application but made a separate application for an Order under Section 20C of the Landlord and Tenant Act 1985.
4. A decision was made on the original application on 7th October 2015 and directions given for the Applicant to file and serve any representations by 21st October. No representations on the s20C Application were received from the Applicant.

DECISION

5. The tribunal declines to make an order pursuant to Section 20C of the Landlord and Tenant Act 1985.

DETERMINATION

6. The Tribunal considered all the papers filed with the original application for an Order pursuant to Section 20ZA of the Landlord and Tenant Act 1985. Further the tribunal had regard to the letter from Midwinters Solicitors dated 30th September 2015 and the witness statement of John Keddie and exhibits dated 29th September 2015.
7. Miss Rendall accepted the need for the works. It was her contention that the actions of the Applicant and their managing agents in organising the same had led to the need for the original application. As a result it was submitted on her behalf that it was unreasonable for her to be required to bear any costs associated with the same.
8. On behalf of Miss Rendall a witness statement and exhibits including a chronology of events and various reports including that of Butler Silcock dated 18th November 2014 and Alcocks chartered surveyors dated May 2015 was filed in support of her application. It appears the main element of dispute between the Applicant and Miss Rendall related to the apportionment of the costs.
9. Whilst plainly time has passed between the Applicant being made aware of the need for repair and the substantive application for

dispensation it is clear there has been ongoing correspondence and discussion of issues. In this Tribunal's experience this is not unusual in the circumstances of the works required and as set out in the various submissions.

10. Further the scope of the work extended from perhaps what was originally envisaged. The application related to works to the front and rear elevations. It was reasonable and prudent for the application to be made. It is notable that no lessee opposed the application itself. Even Miss Rendall appears to accept the works are required and her concerns relate to elements of costs and the apportionment of the costs of the works.
11. Taking all matters into account the Tribunal in exercising its discretion declines to make the order. The Tribunal reminds the parties that in respect of the substantive application the Tribunal has made no determination as to the reasonableness or payability of the costs. Also the Tribunal in declining the order makes no determination as to whether costs are recoverable under the lease or the reasonableness of any costs which the Applicant may seek to recover.

Judge D. R. Whitney

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.
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.

ANNEX A

Section 20ZA

Consultation requirements: supplementary

(1)

Where an application is made to a leasehold valuation 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.

(2)

In section 20 and this section—

“qualifying works” means works on a building or any other premises, and

“qualifying long term agreement” means (subject to subsection (3)) an agreement entered into, by or on behalf of the landlord or a superior landlord, for a term of more than twelve months.

(3)

The Secretary of State may by regulations provide that an agreement is not a qualifying long term agreement—

(a)

if it is an agreement of a description prescribed by the regulations, or

(b)

in any circumstances so prescribed.

(4)

In section 20 and this section “the consultation requirements” means requirements prescribed by regulations made by the Secretary of State.

(5)

Regulations under subsection (4) may in particular include provision requiring the landlord—

(a)

to provide details of proposed works or agreements to tenants or the recognised tenants' association representing them,

(b)

to obtain estimates for proposed works or agreements,

(c)

to invite tenants or the recognised tenants' association to propose the names of persons from whom the landlord should try to obtain other estimates,

(d)

to have regard to observations made by tenants or the recognised tenants' association in relation to proposed works or agreements and estimates, and

(e)

to give reasons in prescribed circumstances for carrying out works or entering into agreements.

(6)

Regulations under section 20 or this section—

(a)

may make provision generally or only in relation to specific cases, and

(b)

may make different provision for different purposes.

(7)

Regulations under section 20 or this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.