

12/60



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

Case Reference : LON/00AM/LDC/ 2017/ 0107

Property : The Pegaso Building N1

Applicant : Aviva Investors Ground Rent GP Limited

Representative : Zen Shaban-Rogers AIRPM Rendall and Rittner Ltd

Respondent : LESSEES AS PER APPLICATION

Representative : n/a

Type of Application : For dispensation from the consultation requirements required by section 20 of the Landlord and Tenant Act 1985

Tribunal Members : Judge Carr
Mr Shaw FRICS

Date of Decision : 24th October 2017

DECISION

Decision of the Tribunal

1. The Tribunal determines to exercise its discretion to dispense with the consultation requirements contained in Part 2 of Schedule 4 to the Service Charges (Consultation Requirements) England) Regulations 2003.

The Application

2. The freeholder of the premises, by its representative, Rendall and Rittner Limited applied on 8th September 2017 under section 20ZA for dispensation from the consultation requirements contained in Part 2 of Schedule 4 to the Service Charges (Consultation Requirements) England) Regulations 2003.

Procedure

3. The Tribunal held a pre-trial review of this matter on 14th September 2017 and issued directions on the same date. In those directions it was decided that in view of the urgency of the application the matter should be determined on the basis of written representations and without an oral hearing.
4. The Directions gave an opportunity for any party to request an oral hearing. They also gave an opportunity for any leaseholder who wishes to oppose the application from the landlord to provide a statement to the Tribunal setting out his or her reasons for so doing. No objections have been received and there have been no requests for an oral hearing and therefore the matter is being determined on the basis of the papers.

Determination

The Evidence

5. The evidence before the Tribunal indicates as follows:
 - a. Following the discovery of extensive water penetration to the property the managing agents arranged for an inspection by Sandberg. The report indicated (i) that the waterproofing present beneath the paving at street level is faulty or failing and therefore needs to be excavated and exposed to determine solutions and (ii) there are problems with the waterproofing of the residential communal garden courtyard area.
 - b. The managing agents have obtained two competitive estimates following a tendering process based upon a specification drawn up by Caroe Martin Limited, Chartered Building Surveyors.

6. It is on this basis that the freeholder has made the application for dispensation.
7. The Tribunal has received no responses from the lessees of the property.

The Law

8. The Tribunal is being asked to exercise its discretion under s.20ZA of the Act. The wording of s.20ZA is significant. Subs. (1) provides:
9. "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**" (emphasis added).

The Tribunal's decision.

10. The Tribunal determines to grant the application.

The reasons for the Tribunal's decision.

11. The Tribunal determines that the works are necessary and urgent and that any delay may well result in additional costs.

The parties should note that this determination does not concern the issue of whether any service charge costs will be reasonable or indeed payable. The Respondents are able, if it appears to them to be appropriate, to make an application under s.27A of the Landlord and Tenant Act 1985 as to reasonableness and payability.

Signed Judge Carr

Dated 24th October 2017