



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

<b>Case Reference</b>	:	<b>BIR/OOCN/LDC/2018/0008</b>
<b>Property</b>	:	<b>Flats 1-52 Churchgate Plaza, 185 Holliday Street, Birmingham B1 1PW</b>
<b>Applicants</b>	:	<b>Churchgate Plaza Management Company Limited (1) Premier Ground Rents (No: 1) Limited (2)</b>
<b>Representative</b>	:	<b>Pinnacle Property Management Limited</b>
<b>Respondents</b>	:	<b>The various Leaseholders as listed in the schedule attached to the Application</b>
<b>Representative</b>	:	<b>None</b>
<b>Type of Application</b>	:	<b>Under Section 20ZA of the Landlord &amp; Tenant Act 1985 for dispensation of consultation requirements in respect of qualifying works</b>
<b>Tribunal Member</b>	:	<b>N R Thompson FRICS sitting alone in Birmingham on 1<sup>st</sup> November 2018</b>

---

**DECISION**

---

© Crown Copyright 2018

## Preliminary

- a. The Applicants seek dispensation from all/some of the consultation requirements imposed by S.20 of the Landlord and Tenant Act 1985 (“the Act”).
- b. The Applicants’ proposals involve urgent works to replace the Automatic Opening Smoke Vents (“AOSVs”) to all floors which are interlinked to the ground floor disability access of the Property. It is contended that the works are urgent for safety reasons and there are therefore good reasons for not fully following the formal consultation procedure contemplated by the Act before instructing contractors to carry out the relevant works.
- c. Each Leaseholder, as a Respondent, has been provided with a copy of the application and accompanying papers and has been given the opportunity to lodge an objection to the application. No such objections have been received and each Respondent has therefore been advised that the application will now be determined without an oral hearing. The only issue before the Tribunal therefore is whether or not it is reasonable to dispense with the consultation requirements of section 20. **This application does not concern the issue of whether any service charge costs are reasonable or indeed payable.**

## Submissions

1. The basis of the application is that the works are required as a matter of urgency for safety reasons, and although part of the necessary consultation procedure has been initiated by the Applicants, it is considered appropriate to seek dispensation from having to complete that exercise before placing a contract for the works to be undertaken.
2. The works are necessary because the AOSVs are said to be opening sporadically and because the Disability Door at ground floor level is interlinked to the smoke vent system, the Disability Door opens when activated by a defective activator. This results in it being necessary to arrange a visit by an appropriate engineer to effect the closure of the Disability Door, but until this can be organised, the building is vulnerable to unauthorised access, which clearly has both security and fire risk implications.
3. Two quotations have been obtained for the works – one for £18,549.60p, the other for £27,600 – both inclusive of VAT. The Applicants propose to accept the lower of these quotations.
4. No representations or objections have been lodged by any of the Respondents.

## The Law

5. Section 20ZA gives the Tribunal discretion to grant dispensation when it considers it reasonable to do so. In addition, the Supreme Court judgement in

*Daejan Investments Limited v Benson and Others* [2013] UKSC 14 empowers the Tribunal to grant dispensation on terms or subject to conditions.

### **Decision**

6. The Tribunal considers that the works are urgent and that the Applicants have acted reasonably in seeking dispensation under section 20ZA. It is not considered that any Respondent will be prejudiced by curtailment of the full consultation procedure, and **the Tribunal therefore grants unconditional dispensation in respect of the works.**
7. It must be emphasised that the application does not extend to the issue of whether any service charge costs will be reasonable or payable. The Respondents will each continue to enjoy the protection of section 27A of the Act.

### **Appeal:**

If any party is dissatisfied with this decision, they have the right to apply to the Tribunal for permission to appeal to the Upper Tribunal (Lands Chamber). Any such application must be made in writing and be lodged at the Tribunal's Birmingham office within 28 days of the date on which this decision is sent to the parties.

N R Thompson

1<sup>st</sup> November 2018