



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

Case Reference : **MAN/36UD/LDC/2019/0006**

Property : **Flats 1-7 & The Garden Flat 10, Dunorlan,
2 Park Road, Harrogate HG2 9AZ**

Applicant : **Dunorlan Freehold Association Limited**

Representative : **Watson**

Respondent : **Flat 1: Mrs Y Urquhart
Flat 2: Mr SE & Mrs CJ Walker
Flat 3: Mr C & Mrs M McCarthy
Flat 4: Ms L Croset & Mr T Gale
Flat 5: Dr T Crystal
Flat 6: Mr MA & Mrs P Abell
Flat 7: Mr P & Mrs M Marchant
The Garden Flat
10 Dunorlan: Mr B Palmer**

Type of Application : **Landlord & Tenant Act 1985 - Section 20ZA**

Tribunal Members : **Mr S Moorhouse LLB
Mr ID Jefferson TD BA BSc FRICS**

**Date of Paper
Determination** : **15 May 2019**

Date of Decision : **3 June 2019**

DECISION

DECISION

Dispensation is granted pursuant to section 20ZA of the Landlord & Tenant Act 1985.

REASONS

The Application

1. The Applicant is the landlord of 8 leasehold apartments at 2 Park Road, Harrogate ('the Property'). The Respondents are the leaseholders. The Applicant's representative, Watson, manages the building.
2. The Applicant seeks dispensation pursuant to Section 20ZA of the Landlord & Tenant Act 1985 ('the Act') in respect of consultation requirements in relation to certain 'Qualifying Works' (within the meaning of the Act).
3. The Qualifying Works comprise the installation of a fire detection and alarm system at the Property.

Paper Determination

4. The Application was submitted on 15 February 2019. Directions were issued on 12 March 2019 requiring the Applicant to submit certain documents and inviting any Respondent to submit a response. Papers were received from the Applicant. No responses were submitted.
5. The directions clarified that the Application does not concern the issue of whether any service charge costs resulting from any of the proposed works are reasonable or indeed payable and it would be open to the Respondents to challenge any such costs charged by the Applicant.
6. No party having requested a hearing, the tribunal proceeded to determine the Application on the papers supplied.

The Law

7. Section 20ZA of the Act, subsection (1) provides as follows:

'Where an application is made to a 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.'

8. The Supreme Court in the case of *Daejan Investments v Benson and others* [2013] UKSC 14 set out certain principles relevant to section 20ZA. Lord Neuberger, having clarified that the purpose of section 19 to 20ZA of the Act was to ensure that tenants are protected from paying for inappropriate works and paying more than would be appropriate, went on to state *'it seems to me that the issue on which the [tribunal] should focus when entertaining an application by a landlord under section 20ZA(1) must be the extent, if any, to which the tenants were prejudiced in either respect by the failure of the landlord to comply with the requirements'*.

Findings of Fact

9. In the present case the Application gives the following reasons for seeking dispensation: The Applicant submits that the Local Authority has advised that the property needs a fire alarm system installing and will be issuing an enforcement notice if this is not done within 2 months, leaving insufficient time to follow the statutory consultation process.
10. The Applicant supplied to the tribunal a copy letter from Harrogate Borough Council dated 29 October 2018. Within the letter the local authority state that the existing fire detection within the building is minimal and does not meet required standards. The local authority attaches guidance on meeting fire safety requirements.
11. The papers included a Fire Risk Assessment and 2 written quotations for the supply and installation of a wireless Grade A LD2 fire alarm system to the communal areas of the Property - the quotations were addressed to the managing agent, Watsons, and submitted by 24 Fire & Security and by Walker Miller & Co Ltd.
12. The tribunal was satisfied that the installation of a fire detection and alarm system was necessary and that time was of the essence having regard to both safety and the local authority involvement. In the absence of any submission from any Respondent objecting to the proposed installation the tribunal found no evidence that the Respondents would suffer prejudice if dispensation were to be granted.

Determination

13. In the circumstances set out above, the tribunal considers it reasonable to dispense with consultation requirements. Dispensation is granted pursuant to section 20ZA of the Landlord & Tenant Act 1985.

S Moorhouse
Tribunal Judge