FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case reference	**:**	**LON/00BD/LDC/2019/0110**
Property	**:**	**Vineyard Heights, 30 Mortlake High Street, London SW14 8HX**
Applicant	**:**	**Glenstone Properties Limited**
Representative	**:**	**Hurford Salvi Carr Property Management**
Respondents	**:**	**The lessees listed in the schedule to the application**
Type of application	**:**	**To dispense with the requirement to consult leaseholders**
Tribunal Members	**:**	**Judge N Hawkes** **Mr M Cairns MCIEH**
Venue	**:**	**10 Alfred Place, London WC1E 7LR**
Date of paper determination	**:**	**12 August 2019**

DECISION

Background

1. The applicant has applied to the Tribunal under S20ZA of the Landlord and Tenant Act 1985 ("the 1985 Act") for dispensation from the consultation requirements contained in section 20 of the 1985 Act in respect of certain qualifying works to flats at Vineyard Heights, 30 Mortlake High Street, London SW14 8HX ("the Property").

2. A notice of intention to carry out work was served on the respondents on or about 22 July 2019 and dispensation from the consultation requirements is sought insofar as they have not already been complied with.

3. The Tribunal has been informed that the Property comprises a block of thirty-one apartments, over seven floors, which are situated above commercial units. There is a car park in the basement and there are a number of offices adjacent to the Property which are spread over four floors.

4. The application is dated 16 July 2019 and the respondent lessees are listed in a schedule to the application.

5. Directions of the Tribunal were issued on 18 July 2019. The applicant has requested a paper determination.

6. No application has been made by any of the respondents for an oral hearing. This matter has therefore been determined by the Tribunal by way of a paper determination on 12 August 2019.

7. The Tribunal did not consider an inspection of the Property to be necessary or proportionate to the issues in dispute.

The applicant's case

8. The evidence provided to the Tribunal includes a report concerning the Property dated April 2019, prepared by Oculus Façade Consultancy Limited ("Oculus"). Oculus concludes that, *"in the event of a fire, there is a risk of rapid fire spread up and across the building facade and into the apartments."*

9. Due to this risk, there is currently a waking watch service in place at the Property. The applicant intends to install a temporary extension to the fire alarm system to replace the waking watch service ("the Work").

10. The applicant states that this application is urgent because the waking watch service costs approximately £20,000 a month whereas the cost of the temporary alarm extension is anticipated to be in the region of £40,000. The applicant will seek to recover these costs through the service charge.

11. In the application, the applicant makes the following statement:

"The proposed works are to install a wireless alarm system into leaseholders' apartments thus extending the communal alarm to cover the whole building. This will, with the authority of the LFB, absolve the requirement to have a waking watch at the building allowing them to be stood down. It is proposed to do this as soon as we have two comparable quotes, the second of these is being sought now but we do have one currently which is for £41,280 inc VAT, this equates to a little over two months waking watch costs therefore we feel that the installation of the alarm system is the right thing to do to stop the leaseholders from paying the ongoing waking watch costs of £20,000 per calendar month. In addition, the human element is removed and by integrating the existing alarm systems resulting in greater coverage [sic] than could be provided by the waking watch. This would result in occupants being notified much quicker of a fire at the property reducing the risk of injury or loss of life."

The respondents' case

12. None of the respondents have filed a reply form and/or representations opposing the applicant's application. The Tribunal has received one letter in support of the application.

The Tribunal's determination

13. Section 20 of the 1985 Act provides for the limitation of service charges in the event that statutory consultation requirements are not met.

14. The consultation requirements apply where the works are qualifying works (as is the case in this instance) and only £250 can be recovered from a tenant in respect of such works unless the consultation requirements have either been complied with or dispensed with.

15. The consultation requirements are set out in the Service Charges (Consultation Requirements) (England) Regulations 2003.

16. Section 20ZA of the 1985 Act provides that, where an application is made to the Tribunal for a determination to dispense with all or any of the consultation requirements in relation to any qualifying works, the Tribunal may make the determination if satisfied that it is reasonable to dispense with the requirements.

17. In all the circumstances and having considered:

a. the information contained within applicant's application, from which the Tribunal understands that (i) the proposed temporary alarm system is likely to be more effective than the waking watch service; (ii) the London Fire Brigade will not require there to be a waking watch service at the Property if the Work is carried out; and (iii) that carrying out the proposed Work is likely to result in a very significant financial saving to leaseholders;

b. the evidence filed in support of the application; and

c. the lack of any opposition and/or challenge to the applicant's account on the part of the respondents,

the Tribunal determines, pursuant to section 20ZA of the Landlord and Tenant Act 1985, that it is reasonable in all the circumstances to dispense with the statutory consultation requirements in respect of the Work.

18. At page 8 of the application the applicant states that the "second part of the dispensation is to cover the on-going waking watch costs". Very little detail has been provided concerning the waking watch service; the matter is not covered in the Tribunal's Directions; and it is therefore unlikely that the respondents would have anticipated that a determination might be made concerning this issue. Accordingly, the Tribunal makes no determination in respect of the waking watch costs and these costs will have to be the subject of a separate application.

19. **This decision does not concern the issue of whether any service charge costs will be reasonable or payable.**

Judge Hawkes

Date 12 August 2019

Rights of appeal

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the tribunal is required to notify the parties about any right of appeal they may have.

If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber), then a written application for permission must be made to the First-tier Tribunal at the regional office which has been dealing with the case.

The application for permission to appeal must arrive at the regional office within 28 days after the tribunal sends written reasons for the decision to the person making the application.

If the application is not made within the 28-day time limit, such application must include a request for an extension of time and the reason for not complying with the 28-day time limit; the tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed, despite not being within the time limit.

The application for permission to appeal must identify the decision of the tribunal to which it relates (i.e. give the date, the property and the case number), state the grounds of appeal and state the result the party making the application is seeking.

If the tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).