



**First-tier Tribunal
Property Chamber
(Residential Property)**

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| Case reference | : | CAM/11UE/LDC/2019/0035 |
| Properties | : | 1-27 The Hollies Maxwell Rd Beaconsfield, Buckinghamshire HP9 1RH |
| Applicant | : | Aldwych/Catalyst Housing Group |
| Respondents | : | The leaseholders of the properties listed in the application |
| Date of Application | : | 7 November 2019 |
| Type of Application | : | for permission to dispense with consultation requirements in respect of qualifying works - Section 20ZA Landlord and Tenant Act 1985 (“the Act”) |
| Tribunal | : | Mrs M Hardman FRICS IRRV (Hons) |
| Date of Decision | : | 21 January 2020 |

DECISION

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Decision

1. The Applicant is granted dispensation from the statutory consultation requirements in respect of the qualifying works .

Reasons

Introduction

2. The landlord has applied for dispensation from the statutory consultation requirements in respect of the installation of a temporary stairlift onto the communal stairs whilst the passenger lift is being refurbished.
3. The development comprises purpose built blocks of a total of 26 retirement apartments. The passenger lift is likely to be out of service for 3 months and the applicant reports that some residents will struggle with the stairs when the lift is out of service.
4. The cost of the stairlift is £4560 including VAT

5. A procedural judge issued directions timetabling this case to its conclusion. One of the directions said that this case would be dealt with on the papers taking into account any written representations made by the parties and a decision would be made on or after 18 December 2019. It was made clear that if any party requested an oral hearing one would be arranged. No such request has been received .
6. However the Applicant failed to comply with the directions order. This required the Judge to issue amended dates for completion of the various steps which meant that the decision was necessarily delayed until of or after 20 January 2020.
7. Two objections were received from leaseholders . Both referred to the failure to comply with the time limits in the directions and the lack of advance planning and consultation. Neither appeared to object to the installation of the stairlift.

The Law

5. Section 20 of the 1985 Act limits the amount which lessees can be charged for major works unless the consultation requirements have been either complied with, or dispensed with by a leasehold valuation tribunal (now called a First-tier Tribunal, Property Chamber). The detailed consultation requirements are set out in Schedule 3 to the Service Charges (Consultation Requirements) (England) Regulations 2003. These require a fairly complicated consultation process which gives the lessees an opportunity to be told exactly what is going on and the landlord must give its response to those observations and take them into account.
6. The landlord's proposals, which should include the observations of tenants, and the amount of the estimated expenditure, then have to be given in writing to each tenant and to any recognised tenant's association. Again, there is a duty to have regard to observations in relation to the proposals, to seek estimates from any contractor nominated by or on behalf of tenants and the landlord must give its response to those observations
7. Section 20ZA of the Act allows this Tribunal to make a determination to dispense with all or part of the consultation requirements if it is satisfied that it is reasonable and the Tenants have not suffered prejudice.

Discussion and Conclusions

8. Following the Supreme Court decision of *Daejan Investments Ltd. v Benson* [2013] UKSC 14, the only issue for the Tribunal is whether the Respondents have suffered prejudice in dispensing with the requirements.
9. Taking into account into account the urgency of the work and the potential risks of delay, it would clearly be unsatisfactory to Applicant and the Respondents for the work to be delayed. It is therefore sensible for the Applicant to proceed with the works as soon as possible and there is no evidence that dispensation as sought would cause any prejudice to the Repondents. It is therefore reasonable to grant dispensation.

ANNEX - RIGHTS OF APPEAL

1. 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.
2. 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.
3. 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.
4. 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.