



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

Case reference	:	CAM/26UG/LDC/2020/0003
Properties	:	1-11 London House 143 London Rd St Albans AL1 1TA
Applicant	:	Remus Management Ltd
Respondents	:	The leaseholders of the properties listed in the application
Date of Application	:	23 January 2020
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	:	17 February 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 replacement of two foul water pumps to the property at 1-11 London Rd St Albans.
3. The development comprises a purpose built block of 11 apartments built circa 2016/17. There are two foul water pumps servicing the building. Following a routine service in October 2019 the need for remedial action was identified and a quote obtained.
4. A second quote was subsequently obtained and cleaning work took place. However in December 2019, the first pump failed and the second shortly after

that. Due to the urgent nature of the work and the ongoing cost of the alternative of pumping out the chambers every few days the contractors were given the go ahead by the applicants to complete the work . The cost was £7789.53 for replacement of both pumps including VAT.

5. A procedural chair 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 **19 February 2020**. It was made clear that if any party requested an oral hearing one would be arranged. No such request has been received .
6. No objections were received from leaseholders .

The Law

7. 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.
8. 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 was 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.
- 10 This is not an application for the Tribunal to approve the reasonableness of the works or the reasonableness, apportionment or payability of the service charge

demand. We make no finding in that regard and the leaseholders will continue to enjoy the protection of section 27A of the Act.

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.