



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

**Case Reference** : **MAN/13UB/LDC/2020/0043**

**Property** : **The Wharf, Crane Street, Chester CH1 4HZ**

**Applicant** : **Wharf (Chester) Management Co Limited**  
**Representative** : **Storrar Cowdry**

**Respondent** : **Long Leaseholders - see Annex A**

**Type of Application** : **Landlord & Tenant Act 1985 – section 20ZA**

**Tribunal Members** : **Mr J Platt FRICS FIRPM**  
**Mr W Reynolds MRICS**

**Date of Paper Determination** : **21 June 2021**

**Date of Decision** : **5 July 2021**

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**DECISION**

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## **DECISION**

Pursuant to section 20ZA of the Landlord and Tenant Act 1985 the Tribunal makes a determination to dispense with the requirement to consult with the Respondents on the works to install a fire alarm system referred to within the Reasons below.

## **REASONS**

### **The Application**

1. The application ('the Application') was made on 9 October 2020 by the Applicant management company. It seeks dispensation under section 20ZA of the Landlord and Tenant Act 1985 ('the Act') in relation to the statutory consultation requirements prescribed by Section 20. Dispensation is sought for the installation of an integrated fire alarm system at the Property. The Property is a purpose build block of flats comprises of 60 flats over four floors. The Respondents are the leaseholders of the flats.
2. At the time of the Application the Applicant proposed installing an integrated fire alarm system at an estimated cost of £28,260.90 plus VAT. It was indicated in the Application that dispensation was sought because the fire alarm system was required urgently and would obviate the need for the waking watch service, costing £15,000 per month. The installation of an integrated fire alarm system, or the waking watch service, is required to comply with an enforcement notice issued by the fire service.
3. Pursuant to Directions, the Applicant submitted a statement of case and related documents on 19 March 2021.
4. Directions issued to the parties required that Respondents submit, within 21 days of receiving the Applicant's statement of case, any statement they wish to submit in response. No statement has been received by the tribunal in response to the Applicant's statement of case, and the Applicant's representative Storrar Cowdry has confirmed that no such statement has been received by them.

### **The Law**

5. Extracts from Sections 20 and 20ZA of the Act are reproduced in Annex B.
6. The Tribunal considers the Supreme Court case of *Daejan Investments Limited v Benson and Others* [2013] UKSC 14 ('*Daejan*') to be the leading case on dispensation. In *Daejan* Lord Neuberger stated that in deciding pursuant to section 20ZA whether it is reasonable to dispense with consultation requirements, a tribunal should consider whether any relevant prejudice would be suffered by the leaseholders. Lord Neuberger stated that whilst the legal burden of proof rests throughout on the landlord, the factual burden of identifying some relevant prejudice that they would or might have suffered rested on the tenants.

## **Determination**

7. In this case, none of the Respondents have submitted a statement of case opposing the Application. The tribunal finds therefore that there is no relevant prejudice identified by any Respondent, suffered as a consequence of the Applicant's decision not to follow the consultation requirements prescribed by section 20 of the Act.
8. A Section 20 consultation process was commenced with a Notice of Intention relating to the proposed works being served on 24 September 2020. Leaseholders have been kept informed of progress with the proposed works and the cost estimate received from Barlows.
9. The tribunal also accepts the submission of the Applicant that there is an element of urgency, both in relation to fire safety and as a consequence of the ongoing cost of the waking watch service, a cost that is no longer incurred once the fire alarm system has been installed.
10. A decision on the issue of dispensation does not concern the issue of whether any service charge costs resulting from any works are reasonably incurred or payable.
11. In the circumstances of this case, the tribunal considers it reasonable to dispense with the consultation requirements. Accordingly, the tribunal makes a determination under section 20ZA of the Act to dispense with the requirement to consult with the Respondents under Section 20, in relation to the fire alarm system referred to in these reasons.

**J A Platt**  
Tribunal Chairman  
5 July 2021

## **Annex A**

### Leaseholders

Mrs G Tilling	Ms B M Weatherhead
Mr L Binns	Mr E Yates
Mr H Evans	Mr A Booth
Mrs S Dowdie	Mr J Carden
Mr D S Randhawa	Mr J F Evans
Ms A S Blundell	Mr M Wilcockson
Mrs A Price & Mrs C Bowler	Mr S McKee & Miss C Corke
Ms L Ainscow	Miss J Pitt
Mr M Downer & Ms J Boucher	Mr D Atherton
Mr & Mrs Pearson	Ms L Davies
Mrs M A Young	Mr T J Pickering
Mr J Davies	Mr R Dunbar
LJS Properties	Mr H Sohanpall
Clear View Associates Ltd	Mr J A Fisher
Mrs S Morgan	Mr B Harris
Mrs E Simpson	Mr A Mills
Mr & Mrs Brazier	Mr M & Mrs D Fernyhough
Mr & Mrs Barlow	Mr N Dodd
Ms V E Cropper	Mr A B Johnson
Mr W J F Trenholme	Mr & Mrs Daniel
Mr W Hassall & Mrs A Hassall	Mr & Mrs Roberts
Mrs E Allison	Mr R J Whittle
Miss G Gregory	Mr G Hall
Miss A Carden	Mr M Conder
Mrs J Davies	
Mrs J Mitchell	
Mr J McIvor & Ms B Partridge	
Mr D Newell & Mrs H Leyland	
Miss E R Read	
Mr B G Parry	
Mr M Pimlott	
Mr L Abdullah	
Mr E Donnelly	
Mr R McKeown & Mr M McGuckin PP	

## **Annex B**

### **Landlord and Tenant Act 1985**

#### Section 20

(Subsections (1) and (2):)

(1) Where this section applies to any qualifying works or qualifying long term agreement, the relevant contributions of tenants are limited in accordance with subsection (6) or (7) (or both) unless the consultation requirements have been either -

- (a) complied with in relation to the works or agreement, or
- (b) dispensed with in relation to the works or agreement by (or on appeal from) a tribunal.

(2) In this section 'relevant contribution', in relation to a tenant and any works or agreement, is the amount which he may be required under the terms of his lease to contribute (by the payment of service charges) to relevant costs incurred on carrying out the works under the agreement.

#### Section 20ZA

(Subsection (1))

(1) 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.