



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

**Case Reference** : **CAM/00MD/LDC/2019/0023**

**Property** : **1-39, 49-65 (odds), 121-143 (odds)  
Hurworth Avenue  
and  
1-8 Fleming Court, Langley, Slough, SL3  
7FG**

**Applicant** : **Prince Regent Crescent  
Management Co Ltd**  
  
**Unrepresented**

**Respondents** : **Long leaseholders named in the  
application**  
  
**Unrepresented**

**Date of Application** : **3<sup>rd</sup> September 2019**

**Type of Application** : **Section 20ZA Landlord and Tenant Act 1985  
("the Act")  
Dispensation from consultation  
requirements**

**Tribunal** : **Judge J. Oxlade**

**Date and venue of  
Hearing** : **24<sup>th</sup> October 2019  
Paper hearing**

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**DECISION**

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**The application for dispensation from the consultation requirements is hereby granted in respect of qualifying works named in the application, namely to achieve compliance with current fire and safety regulations.**

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## REASONS

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1. The Applicant is the management company (“the management company”) and party to a tri-partite lease of various premises, namely 1-39, 49-65 (odds) Hurworth Avenue, and 1-8 Fleming Court, Langley, Slough.
2. The premises consist of five, two and three storey buildings, divided into 67 flats. They were completed approximately 18 years ago, and so are of modern construction.
3. The Applicant arranged for a routine Fire Risk Assessment (“FRA”) of the communal areas of the premises to be undertaken by Quantum Compliance (“QC”), which company undertook a site visit on 22<sup>nd</sup> May 2018.
4. The report found that in each building there was only one staircase - and so a single means of escape – and that there were no fire alarms or other means of fire detection in the communal areas, nor fire extinguishers or a sprinkler system - because at the time the buildings met adequate standards of compartmentalisation.
5. However, the assessor noted that there were poorly fitting fire doors - particularly outside flat 25 Hurworth, and serving the riser cupboards. He noted that (i) the gaps around the doors were excessive, exceeding 5mm, and (ii) there was insufficient fire stopping around electrical and riser cupboards and door frames, (iii) further, various locks were missing.
6. Despite those observations the risk rating was assessed as “tolerable”, and a review date was recommended for 2020. The assessment was that there was a low likelihood of fire but that there was a moderate harm arising from the likely consequences of a fire and that the hazard was in all common areas.
7. The writer advised that a specific survey should be undertaken of the fire doors, to see that they all fitted properly and were in good condition, offered a good level of protection (with self-closing mechanisms) and a specification of works made to achieve compliance. It is said by the Applicant that this was undertaken by Capital Fire Doors (“CFD”), though the document provided following on from a site visit on 30<sup>th</sup> July 2019 is simply one of two quotes obtained for remedial works to bring the common parts up to current standards.
8. The Applicants case is that the outcome of the reports was shared with the Residents’ Management Company (“RMC”), who expressed a view that the remedial works should be started and completed as a matter of urgency, which view accorded with the Applicant’s own view.

9. This prompted the Applicant to issue the current application, seeking a dispensation from the entire consultation requirements under section 20ZA of the Act, which requirements are invoked when the cost of works could mean that any one flat could face a service charge of over £250 for the works. Simultaneously, the Applicant wrote to all 67 lessees to advise them of the current position.

### Directions

10. The Tribunal received the application, and having considered the Applicants assertion that it was urgent, made Directions expeditiously.
11. In those Directions, the Tribunal made it clear that this application would not consider whether the costs were reasonable or payable; rather, simply whether the consultation requirements should be dispensed with. Further, to ensure that each and every leaseholder was made aware of the application, the Tribunal required the Applicant to notify all lessees individually of the application, and to post in the communal areas copies of the application; thereafter, for the Applicant to certify that was the case (which certificate has been provided to the Tribunal).
12. By those Directions, any lessee who opposes the application was required to let the Tribunal know by 25<sup>th</sup> September 2019; no opposition to the application has been advised by any lessee.

### Evidence

13. The Directions required the filing of evidence to establish the Applicant's case pursuant to which the Applicant has provided the report of QC, Exova, Capital Fire Doors, and B & K Fire Protection.
14. Whilst considering the papers I asked the Applicant to explain the delay between the report of the summer of 2018, and the application, which was said to be "urgent".
15. By return dated 17<sup>th</sup> October 2019 Pinnacle Property Management ("PPM") set out the chronology:
  - in 2018 the Fire Risk assessment was received, which contained a 3-month time frame for remedying the problems;
  - in 2018 the Agents arranged for fire stopping works, and then a check of all doors, with a report returned to them in December 2018;
  - in December 2018 a second company was asked to report after inspection, and to quote; they required a more detailed assessment, over and above the 10 point checklist, so Exova were contacted and booked;
  - on 3<sup>rd</sup> May 2019 Capital were awarded the works and a survey and quotation were obtained.
16. The management company say that on 1<sup>st</sup> August 2019 it consulted the board of the Resident Management company – consisting of 3 leaseholders - who

instructed them to proceed without delay, and had provided to them written confirmation to expedite the process. The management company says that the report of Capital says that the defects have “a medium level of priority”.

### Relevant Law

17. The legislation provides that where any one lessee's service charges will or may exceed £250 there has to be consultation, absent of which recovery of service charges are limited to £250. The consultation process does not involve assessments of payability or reasonableness; if challenged, that can be done by a section 27A application.
18. However, the legislation provides that the consultation process can be dispensed with, by Tribunal sanction, where it is “reasonable to do so”, in accordance with section 20ZA.

### Findings

19. The reports filed show that the buildings in question are residential, housing up to 12 households, over two or three storeys, but in each building there is only one set out stairs - and so one means of escape from fire.
20. There is no sprinkler system and no integrated warning system. The compartmentalisation provides containment of fire, but I infer that this has been identified as defective: there are poorly fitting fire doors, which fire doors should be designed and installed to prevent fire spreading. It is concerning if there are breaches in acceptable standards, because the safety of residents could be compromised.
21. The Applicant requested a hearing on the papers, so to avoid delay, but the Tribunal has not been provided with all of the documents referred to by the Applicant. From what has been provided and the chronology given, I cannot be sure that the agents have dealt with this as expeditiously as they might have done. However, that in itself is not a good reason to consider that the deficiencies in fire protection are not serious or do not require swift remedial action, and so to dispense with consultation, which inherently gives rise to delay.
22. The Applicant has taken the step of contacting all lessees, and had the sanction of the RMC to dispense with the consultation requirements, so that the works can proceed without delay; it is an important factor in the Tribunal's decision-making that (a) none of the lessees have opposed the application and (b) the RMC have positively encouraged it, and are said to want the work “completed as a matter of urgency”.
23. Whilst the risk of fire maybe on the low side, and the defects in the building have (probably) been in place since construction 18 years ago, this has to be tempered by recognition that the consequences of a fire are potentially devastating. When weighing that up, along with RMC support for the application, and absence of

opposition from the lessees, I find in the circumstances that it is reasonable to dispense with the consultation requirements.

24. I therefore grant the application to dispense with consultation in respect of the works identified in the reports referred to in this application.

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Judge J. Oxlade

24<sup>th</sup> October 2019