



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

Case Reference : BIR/00FN/LDC/2022/0008

Property : 47 Briton Street, Leicester, LE3 0AB

Applicant : A Shade Greener Ltd, Representative –
Alan Powell, Powells Commercial
Property Consultants

Respondent : Sarah Dyson

Type of Application : To dispense with the statutory
consultation requirements under Section
20ZA of the Landlord and Tenant Act 1985

Tribunal Members : Judge Craig Kelly
Vernon Ward FRICS Regional Surveyor
Julie Rossiter MBA MRICS

Date of Decision : 26 May 2022

DECISION

DECISION

1. The Tribunal grants the application for dispensation from statutory consultation in respect of the subject works, namely the installation and commissioning of various pieces of fire safety equipment at 47 Briton Street, Leicester, LE3 0AB (“the Property”).
2. The Applicant should place a copy of this decision together with an explanation of the leaseholder’s appeal rights on its website (if any) within seven days of receipt of this decision and maintain it there for at least three months, with a sufficiently prominent link to both on its home page. It should also display copies in a prominent position in the common parts of the Property.
3. This decision does not affect the Tribunal’s jurisdiction upon any future application to make a determination under s27A of the Landlord and Tenant Act 1985 in respect of the reasonableness and/or the cost of the relevant works.

The Application

4. The Applicant seeks a determination pursuant to s.20ZA of the Landlord and Tenant Act 1985 (“the Act”) for dispensation from consultation in respect of the installation of various fire protection equipment, described as:
 - a. thirteen heat detectors to the entrance of each flat;
 - b. three break-glass panels in communal areas;
 - c. four standard smoke/sounder detectors;
 - d. two sounders to cover all areas; and
 - e. a full commissioning of the fire equipment.

(“the Works”).
5. The Service Charges (Consultation Requirements) Regulations 2003 provide that consultation requirements are triggered if a landlord plans to carry out qualifying works that would result in the contribution of any tenant being required to pay more than £250 in any service charge year. The costs of the Works envisaged in this application exceed that threshold.
6. On 28 March 2022, Regional Surveyor Ward made directions requiring the Applicant to provide copies of the dispensation application to all leaseholders at the Property. Any leaseholder intending to oppose the application was required to notify the Tribunal of their objections by 29 April 2022. The Tribunal has received no such objections. A number of leaseholders have, however, expressly supported the application.
7. The directions identified that the Application requested a paper determination, and that the Tribunal agreed with that mode of disposal. The Tribunal directions provided for any interested leaseholder to request an oral hearing. No such request was received.

The Applicant's Case

8. The Applicant is the freeholder of the Property, acting via its agent, Powells Commercial Property Consultants. The application for dispensation in respect of the Works was received by the Tribunal on 22 March 2022, which detailed that the Works commenced on 18 March 2022. The application noted that the Works were required to be carried out urgently, given their nature, and the fire safety concerns that necessitate them. These concerns first arose following an inspection by a fire safety officer on 6 October 2021.
9. A quote for the Works was obtained by the Applicant, amounting to £6,780 plus VAT (i.e £8,136). Whilst there is no range of quotes provided to the Tribunal to consider, nothing in this application prevents the Tribunal from later concluding that the Works were not reasonable in amount and/or not carried out to a satisfactory standard if such an application were to be made.
10. The Tribunal does, however, accept that the nature and purpose of the Works would likely require them to be carried out with some urgency.

The Respondent's Case

11. No Respondents have objected to the application.
12. Indeed, the majority of owners of flats in the Property have expressly consented to the application.

Determination and Reasons

13. Section 20ZA (1) of the Act provides:

“Where an application is made to a leasehold valuation tribunal for a determination to dispense with all or any of the consultation requirements in relation to the 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.”
14. The purpose of s. 20ZA is to permit a landlord to dispense with the consultation requirements imposed by s.20 of the Act if the Tribunal is satisfied that it is reasonable for them to be dispensed with. Such an application may be made retrospectively, as is the case here.
15. Consideration has been given by the Tribunal to the decision in *Daejan Investments Ltd -v- Benson and others* [2013] UKSC 14 on matters of prejudice, in reaching its decision.
16. There is no evidence before the Tribunal of any prejudice to any of the leaseholders as a consequence of the consultation requirements not being followed.

17. The Tribunal is satisfied in the all circumstances that it is reasonable to dispense with all of the consultation requirements in relation to the Works.
18. Whether the Works have been carried out to a reasonable standard and at reasonable cost are not matters that fall to be determined in this application and nothing in in this decision prevents the Tribunal from determining such matters at a later stage in a separate application under s27A of the Act.

Judge Craig Kelly
Dated 26 May 2022

ANNEX- Rights of Appeal

1. If a party wishes to Appeal this decision to the Upper Tribunal (Lands Chamber), then a written application must be made to the First Tier Tribunal at the regional office which has been dealing with the case.
2. Any application for permission to appeal must arrive at the regional office within 28 days after the Tribunal sends the 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 consider such reasons and determine whether to allow the application for permission to appeal to proceed, notwithstanding that the 28 day time limit has expired.
4. Any application for permission to appeal must identify the decision of the Tribunal to which it relates (i.e provide the date, the property, and the case number) and set out the grounds of appeal and state the result that the party making the application is seeking.