



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

Case reference : **MAN/00DA/LDC/2022/0044**

Property : **Milton House, Queen Street, Morley, Leeds LS27 9EB**

Applicant : **Grey GR Limited Partnership**

Applicant's Representative : **Hunters**

Respondent : **Various Long Residential Leaseholders
(listed in Schedule 2)**

Type of Application : **Landlord & Tenant Act 1985 - Section 20ZA**

Tribunal Members : **Tribunal Judge S Moorhouse LLB
Mr K Kasambara BSc MSc MRICS**

Date of Paper Determination : **24 June 2022**

DECISION

DECISION

1. 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 Milton House, Queen Street, Morley, Leeds LS27 9EB described in Schedule 1.

REASONS

The Application

2. The application ('the Application') was made on 23 June 2022 by Grey GR Limited Partnership ('the Applicant'). 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.
3. Dispensation is sought to carry out certain works related to fire safety identified described in Schedule 1 ('the Works'). The Works are to be carried out to Milton House, Queen Street, Morley, Leeds LS27 9EB ('the Property'), comprising a 3 storey building with 20 residential apartments, and commercial elements to the ground floor. The Applicant is the freeholder of the Property and the Respondents, listed in Schedule 2, are the leaseholders of the residential apartments. A sample lease provided by the Applicant shows the term to be 125 years from 1 January 2016.
4. Directions were issued on 7 July 2022. Pursuant to these the Applicant submitted a bundle of documents including a short statement of case, relevant correspondence, quotations and relevant notices.
5. Due to an administrative error the Directions were not issued to all of the Respondents. Amended Directions were therefore issued to all parties on 21 September 2022. Both sets of Directions made provision for any Respondent who opposed the Application to submit a statement in response. HMCTS has confirmed that none of the Respondents submitted a statement opposing the Application.
6. The Applicant company indicated that it would be content with a determination on the papers. The tribunal considered this to be appropriate because none of the Respondents opposed the Application, neither party had requested a hearing and because there was sufficient information before the tribunal to reach a decision. It was unnecessary to conduct an inspection of the Property in view of the matters in issue.

The Law

7. Extracts from sections 20 and 20ZA of the Act are reproduced in Schedule 3. Section 20ZA subsection (1) provides that the tribunal may make a determination to dispense with consultation requirements 'if satisfied that it is reasonable to dispense with the requirements'.
8. 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.

Findings of fact and Reasons for decision

9. In this case, none of the Respondents have submitted a statement of case opposing the Application. There is no evidence before the tribunal that any of the Respondents consider a full section 20 consultation process to be appropriate, or consider that they would be prejudiced in some way if there were no such process. 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.
10. The Applicant states that an Enforcement Notice has been issued by the Fire Service allowing a 3 month period to carry out the Works, with a requirement that a waking watch service (costing £14 per hour for a 24/7 period) be in place immediately and continued until the completion of the Works. Failure to comply would result in a Prohibition Notice and the closure of the building. The tribunal accepts that the timescale required for a full section 20 consultation would have prevented the Applicant from meeting the deadline imposed.
11. In all of the circumstances described above, the tribunal considers it reasonable to dispense with 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 Works.
12. It is apparent from the Application that advice is being sought by the Applicant as to how the Works might be funded. The extent to which the costs will ultimately be passed to leaseholders by way of service charge is, as yet, unclear. The tribunal expresses no view as to whether any costs associated with the Works are reasonable in amount, whether the Works are of a reasonable standard or whether any service charge that does arise is payable, within the meaning of sections 19 and 27A of the Act. The tribunal's decision does not include or imply any determination of such matters.

S Moorhouse

Tribunal Judge

Schedule 1

‘the Works’

The Works are as follows:-

- (a) remedial works on the compartmentalisation in the communal areas;
- (b) remedial works on the compartmentalisation in the apartments;
- (c) remedial works on the communal fire doors;
- (d) remedial works on the apartment doors;
- (e) remedial work on the smoke shaft;
- (f) possible installation of extra detection within the apartments; and
- (g) related surveys.

Schedule 2

The Respondents

Apartment 1	Moira Billington and Martin Billington
Apartment 2	Kevin Michael Beeling
Apartment 3	Melvin Rose and Gillian Rose
Apartment 4	Yu Liu
Apartment 5	Seabreeze Corporation Limited
Apartment 6	Victoria Giordano and Michael Giordano
Apartment 7	Mrs Christine Spalding
Apartment 8	Robbie Sweeting and Michelle Sweeting
Apartment 9	Seabreeze Corporation Limited
Apartment 10	Richard Hall
Apartment 11	Adam Earnshaw and Sharon Marshall
Apartment 12	Osy Okwvosa
Apartment 14	Daniel Thomas
Apartment 15	Nicholas Vargassof and Gillian Vargassof
Apartment 16	Nigel Edwin Mitchell Jones
Apartment 17	Jerry Winston Limited
Apartment 18	Christine Spalding
Apartment 19	Tilly Smart Limited
Apartment 20	Jayakumar Perri Krishnaiah
Apartment 21	Jerry Winston Limited

Schedule 3

Extracts from legislation

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.