



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

**Case reference** : **LON/00BF/LDC/2022/0233**

**Property** : **Belsize Court, 18 Burnell Road, Sutton  
SM1 4BH**

**Applicant** : **Housing 21**

**Representative** : **None**

**Respondent** : **The leaseholders of the Property**

**Representative** : **None**

**Type of application** : **Application for dispensation under  
s20ZA of the Landlord and Tenant Act  
1985**

**Tribunal members** : **Judge H. Lumby  
Ms M. Krisko FRICS**

**Venue** : **Paper determination**

**Date of decision** : **2 May 2023**

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**DECISION**

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## **Decisions of the tribunal**

**The tribunal determines that by virtue of s20ZA of the Landlord and Tenant Act 1985 (the Act) dispensation should be granted from the remaining consultation provisions as required under s20 of the Act and the Service Charges (Consultation Requirements) (England) Regulations 2003 (the Regulations) for the reasons set out below.**

### **Background**

1. This is an application under section 20ZA of the Landlord and Tenant Act 1985 (the Act) by the landlord, Housing 21 in respect of Belsize Court, 18 Burnell Road, Sutton SM1 4BH (the Property) for dispensation from the requirements under s20 of the Act and the Regulations. The application is dated 3 February 2023.
2. We have been supplied with a 44 page bundle and have reviewed the application, a quotation from Appello Smart Living Solutions Limited (Appello) dated 20 September 2022 in relation to the proposed works, a list of leaseholders, a response from one leaseholder to the directions and a specimen lease for the Property. We have also seen an email dated 22 March 2023 from the Applicant confirming that the leaseholders were informed of this application in accordance with the directions and no objections had been received. The response from the leaseholder seen by the tribunal did not contain or refer to any objection. We have noted the contents of these documents and taken them into account when reaching our decision.
3. The Property is a four storey retirement housing complex, comprising 63 units. Ten of these are leasehold, with the balance rented. Two of the leasehold units have two bedrooms, with the remainder having single bedrooms.
4. The proposed works for which dispensation is sought comprise the replacement of the emergency call system with a modern digital system. The quotation from Appello is for £162,686.52, comprising three elements; these are (i) the installation of Appello Smart Living Solutions (SLS) Digital Telecare System and video door entry (£99,592.31) (ii) the installation of Dwelling Fire Detection (LD1, Grade D1) (£62,612.21) and (iii) the provision of a SIM card for continued connection in the event of Broadband failure (year 1 charge) (£480.00).
5. Various reasons have been given for the dispensation that is being sought. First, the Applicant has referred to the increasing unreliability of the existing analogue system; this will in any event be redundant once BT ceases to support analogue lines from 2025. Secondly, the Applicant considers that the Appello system is the only suitable digital system as no other provider supports a fully encrypted digital onsite and offsite pathway. It is also the only system that allows unlimited calls to be handled concurrently. As a result, it is not possible to tender a directly comparable system as Appello are the only supplier of a digital solution with the desired functionality.

6. Directions were issued on 14 March February 2023 indicating that, in the absence of any disagreement, the application would proceed as a paper determination. The only response from a leaseholder confirmed that there was no objection to the application proceeding in this way.

### **Law**

7. Both section 20 of the Act and the Regulations relate to consultation with leaseholders before certain works are carried out or costs incurred. If this does not occur, the amount tenants are required to contribute can be limited.
8. Section 20ZA(1) of the Act provides:

*“Where an application is made to [the appropriate 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”*
9. The tribunal is the appropriate tribunal for these purposes. The works the subject of this application are qualifying works for the purposes for section 20ZA(1). The issue to be determined is therefore whether we are satisfied that it is reasonable to dispense with the consultation requirements in relation to the proposed contract with Appello.
10. In the case of Daejan Investments Limited v Benson and others [2013] UKSC 14, the Supreme Court considered the principles to be applied by a tribunal in considering a section 20ZA(1) application. It held that the tribunal should focus on the extent to which tenants were prejudiced by a failure to consult.

### **Findings**

11. We have considered this matter solely on the papers before us. This application relates only to the dispensation from the consultation requirements set out at section 20 of the Act and the Regulations. It does not relate to the reasonableness or the liability to pay for the costs associated with the works.
12. It is clear from the papers that the irregularities in the existing system mean that action is required urgently and that these works will provide occupiers of the property with enhanced protection. It is also apparent that comparable alternative quotations cannot be obtained as Appello is the only provider of a system with the required functionality. As a result, obtaining other proposals and conducting a meaningful consultation in relation to them will not be possible. We are therefore satisfied that it is

reasonable to grant dispensation from the consultation requirements. We have borne in mind the Supreme Court decision in Daejan Investments Limited v Benson and others [2013] UKSC 14. There is no evidence of any prejudice caused to the leaseholders and indeed none have raised an objection to the application.

13. Dispensation is therefore granted from the remaining elements of the consultation process as provided for in the Regulations.

**Name:** Judge H Lumby

**Date:** 2 May 2023

### **Rights of appeal**

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the tribunal is required to notify the parties about any right of appeal they may have.

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.

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.

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.

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.

If the tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).