



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

Case Reference: LON/00BK/LDC/2023/0124 P

HMCTS code: P: PAPERREMOTE

Property: Fitzroy Place 1 Nassau Street and 3-7
Pearson Square Fitzrovia London W1T

Applicant: Fitzroy Place Management Co Ltd

Representative : Rendall and Rittner (Katie Shorey)

Respondents: The leaseholders of Fitzroy Place, 1
Nassau Street and 3-7 Pearson Square
London W1T

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

**Tribunal
members:** Judge Pittaway
Mr M J F Donaldson FRICS

Date of decision: 13 July 2023

DECISION

Description of hearing

This has been a remote hearing on the papers which has been consented to by the Applicant and not objected to by any Respondent. The form of remote hearing was P:PAPERREMOTE. A face-to-face hearing was not held because no-one requested a hearing and all issues could be determined on paper.

The documents to which the Tribunal was referred in a bundle of 104 pages which included an undated copy of the application, the Directions dated 17 May 2023, a quotation for the proposed works, and a copy of the lease of Apartment 1001, Block 4, 7 Pearson Square, London W1T 3BP.

The Tribunal has had regard to the documents before it in reaching its decision set out below.

DECISION

The Tribunal grants the application for dispensation from statutory consultation in respect of the subject works ('the works'), namely the replacement of the closed protocol fire alarm panels as the parts are now obsolete.

This decision does not affect the Tribunal's jurisdiction upon any future application to make a determination under section 27A of the Act in respect of liability to pay, for a reason other than non-consultation in respect of the subject works, and the reasonableness and/or the cost of the subject works.

The Application

1. The Applicant seeks a determination pursuant to section 20ZA of the Landlord and Tenant Act 1985 (the 'Act') for dispensation from consultation in respect of the works to the Property, namely the replacement of the closed protocol fire alarm panels as the parts are now obsolete.

2. The application did not cost the works but stated that they are qualifying works. The Service Charges (Consultation Requirements) Regulations 2003 provide that consultation requirements are triggered if it is planned to carry out qualifying works which would result in the contribution of any tenant being more than £250.
3. By directions dated 17 May 2023 (the '**directions**') the Tribunal directed that the Applicant by 31 May 2023 send each leaseholder and any residential sublessees the application and the directions and display a copy in a prominent place in the common parts of the property. The applicant confirmed to the Tribunal that copies had been posted to the residents via the online portal on 25 May 2023, copies posted to any 'none registered owners' on 26 May 2023, copies e mailed to the residents' committee on 23 May 2023, hard copies hand delivered to any sub-lessees on 25 May 2023 and copies displayed in the reception area and the resident lounge on 25 May 2023.
4. The directions provided that if any leaseholder/sublessee objected to the application he/she should do so, to the Applicant and the Tribunal, by 14 June 2023. The Tribunal received no objections.
5. The directions provided that the Tribunal would decide the matter on the basis of written representations unless any party requested a hearing. No one did.

The Applicant's case

6. The application describes the property as a development made up of 291 units, 2 commercial, 54 affordable and 235 private residential. The property is a purpose built block which consists of a mixture of studio apartments to 4 bedroom penthouses.
7. The application states that the works relate to the fire alarm panels located in all the residential and affordable blocks. Work is being undertaken to the commercial units under a separate contract using the same contractor. The fire alarm system is described in the application as being 'a closed protocol system on the whole development'. Because it is a 'closed protocol system' the applicant states that it is not able to follow the usual s20 consultation process, as alternative contractors cannot maintain the system. The applicant has investigated replacing the whole system but states that that would cost nearly three times as much. The proposed works have been discussed with the unofficial residents association. The Applicant considers the work needs to undertaken urgently as the work relates to the fire alarm system.
8. The bundle contains a quotation from Protec Fire Detection PLC of £76,629, broken down as follows

- Site wide areas £29,955
- Residential Blocks ABC £15,510
- Residential block DEF £15,510
- Residential Block GH £15,654

Responses from the Respondents

9. The directions provided that if any leaseholder/sublessee objected to the application he/she should do so, to the Applicant and the Tribunal, by 14 June 2023.
10. The front page of the Applicant’s bundle stated that it had received no reply forms.
11. The Tribunal received no objections.

Determination and Reasons

12. 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 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.”

13. The purpose of section 20ZA is to permit dispensation with the consultation requirements of section 20 of the Act if the Tribunal is satisfied that it is reasonable for them to be dispensed with.
14. The Tribunal determines that the Respondents are not prejudiced by the works and it is reasonable to dispense with the consultation requirements.
15. In reaching its decision the Tribunal has considered the decision in *Daejan Investments Ltd v Benson and others* [2013] UKSC 14, and has had regard to the application and the documents provided, in particular
 - the evidence of the consultation which the Applicant has undertaken with the Respondents,
 - that no objection has been received from any Respondent, and
 - the stated need for the works.
16. Whether or not the Respondents are liable for the cost of the works by reason of the terms of their leases, any statutory provision other than section 20ZA, and whether

the works are carried out to a reasonable standard and at a reasonable cost are not matters which fall within the jurisdiction of the Tribunal in relation to this present application. This decision does not affect the Tribunal's jurisdiction upon any future application to make a determination under section 27A of the Act in respect of liability to pay and the reasonableness and /or cost of the works.

17. The Applicant is reminded that, as stated in the Directions, it is the responsibility of the Applicant to serve a copy of this decision on all Respondents.

Name: Judge Pittaway Date: 13 July 2023

ANNEX - RIGHTS OF APPEAL

1. 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.
2. 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.
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 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.
4. 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.

