



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

**Case Reference** : **LON/00BK/LDC/2023/0137**

**Property** : **Heron Place, Thayer Street and  
George Street, London W1U 3QG**

**Applicant** : **Eskmuir Properties Limited,  
represented by Savills (UK) Ltd**

**Respondents** : **The leaseholders**

**Type of Application** : **Dispensation from consultation  
requirements under Landlord and  
Tenant Act 1985 section 20ZA**

**Tribunal Members** : **Judge Professor R Percival**

**Venue** : **Remote paper determination**

**Date of Decision** : **22 August 2023**

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**DECISION**

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## **Decisions of the tribunal**

- (1) The Tribunal, pursuant to section 20ZA of the Landlord and Tenant Act 1985 (“the 1985 Act”), grants dispensation from the consultation requirements in respect of the works the subject of the application.

## **Procedural**

1. The landlord submitted an application for dispensation from the consultation requirements in section 20 of the Landlord and Tenant Act 1985 (“the 1985 Act”) and the regulations thereunder, dated 10 May 2023.
2. The Tribunal gave directions on 28 June 2023. The directions provided for a form to be distributed to those who pay the service charge to allow them to object to or agree with the application, and, if objecting, to provide such further material as they sought to rely on. The application and directions was required to be sent to the leaseholders and any sublessees, and to be displayed as a notice in the common parts of the property. The deadline for return of the forms, to the Applicant and the Tribunal, was 26 July 2023.
3. The Applicant confirmed that the relevant documentation had been sent to the leaseholders.
4. No response from any of the leaseholders has been received by the Tribunal. The Applicant confirmed that no responses had been received by it.

## **The works and consultation**

5. The property is a purpose built development comprising two linked blocks, with commercial premises on the ground floor and flats above. There are 36 residential flats.
6. The works are the installation of replacement bin store doors and bin chute hopper doors.
7. The Respondent’s agents report that a fire risk assessment dated 22 July 2022 noted that the rubbish chute hopper doors should be fire resistant, so as to separate the bin store from the chute riser. As a result, the agent engaged with a company called Hardall International Ltd, who proposed self-closing and self-sealing hopper doors, at a cost of £9,350 plus VAT, in a proposal dated 12 January 2023.

8. A quotation was obtained from another company, EDSB Ltd, which the agent describes as comparable, but allowed for some additional work in relation to dampers. The quoted cost was £25,320 plus VAT. A further company also quoted for what appears to be a different approach, at a cost of £16,849 plus VAT.
9. The agents consulted the risk assessor responsible on the Hardall International and EDSB quotations/proposals. He responded that the works as defined in the Hardall International quotation were sufficient. The work was undertaken in June 2023, at a slightly higher cost than quoted (£9,855).
10. The agents report that a section 20 notice of intended works was served on the leaseholders on 14 April 2023. No comments were received from any of the leaseholders.

### **Determination**

11. The relevant statutory provisions are sections 20 and 20ZA of the Landlord and Tenant Act 1983, and the Service Charges (Consultation etc)(England) Regulations 2003. They may be consulted at the following URLs respectively:  
<https://www.legislation.gov.uk/ukpga/1985/70>  
<https://www.legislation.gov.uk/uksi/2003/1987/contents/made>
12. The Tribunal is concerned solely with an application under section 20ZA of the 1985 Act to dispense with the consultation requirements under section 20 and the regulations.
13. The Applicant does not suggest that dispensation is necessary as a result of the urgency of the work. The agents started to undertake the consultation requirements in section 20 of the 1985 Act, and there is no obvious reason why they could not have completed them, had the quotations been sought on the same basis, rather than allowing the contractors to bid on the basis of different work specifications.
14. However, no response been received from any of the leaseholders objecting to the application. It is therefore clear that the leaseholders have not sought to claim any prejudice as a result of the consultation requirements not having been satisfied. Where that is the case, the Tribunal must, quite apart from any question of urgency, allow the application: *Daejan Investments Ltd v Benson and others* [2013] UKSC 14; [2013] 1 WLR 854.
15. I note that it is not immediately apparent why the works reached the threshold requiring consultation, and no explanation is provided. However, in the light of the failure by any of the leaseholders to claim

prejudice, it would not be proportionate to further investigate the question.

16. This application relates solely to the granting of dispensation. If the leaseholders consider the cost of the works to be excessive or the quality of the workmanship poor, or if costs sought to be recovered through the service charge are otherwise not reasonably incurred, then it is open to them to apply to the Tribunal for a determination of those issues under section 27A of the Landlord and Tenant Act 1985.

### **Rights of appeal**

17. 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 London regional office.
18. The application for permission to appeal must arrive at the office within 28 days after the Tribunal sends written reasons for the decision to the person making the application.
19. If the application is not made within the 28 day time limit, the 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 these reason(s) and decide whether to allow the application for permission to appeal to proceed despite not being within the time limit.
20. The application for permission to appeal must identify the decision of the Tribunal to which it relates, 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.

**Name:** Judge Prof Richard Percival      **Date:** 22 August 2023