



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

Case reference : **LON/00AW/LDC/2023/0108**

Property : **4 & 4A Queens Gate Place, London
SW7 5NT**

Applicant : **Orchidbase Limited**

Representative : **Sammi Rich of Eight Asset
Management**

Respondents : **The leaseholders of the Property**

Type of application : **Dispensation from compliance with
statutory consultation
requirements**

Tribunal member : **Judge P Korn**

Date of decision : **28 November 2023**

DECISION

Description of hearing

This has been a remote hearing on the papers. An oral hearing was not held because the Applicant confirmed that it would be content with a paper determination, the Respondents did not object and the tribunal agrees that it is appropriate to determine the issues on the papers alone. The documents to which I have been referred are in an electronic bundle, the contents of which I have noted. The decision made is described immediately below under the heading “Decision of the tribunal”.

Decision of the tribunal

The tribunal dispenses unconditionally with the consultation requirements in respect of the qualifying works which are the subject of this application.

The application

1. The Applicant seeks dispensation under section 20ZA of the Landlord and Tenant Act 1985 (“**the 1985 Act**”) from the consultation requirements imposed on the landlord by section 20 of the 1985 Act in relation to certain qualifying works.
2. The qualifying works which are the subject of this application consist of the installation of a chemical dosing system after the discovery of legionella in the water. The Property is a townhouse converted into 12 flats.

Applicant’s case

3. During a recent water risk assessment, traces of legionella were found within the water supply and therefore the Applicant considers it essential to instal a chemical dosing system. A section 20 notice of intention has been issued but the Applicant states that it cannot go through the full section 20 process. This is because the works need to be carried out as quickly as possible to prevent the risk of water contamination and consequential threat to the health of the occupiers of the Property.

Responses from the Respondents

4. None of the Respondents has written to the tribunal raising any objections to the dispensation application.

The relevant legal provisions

5. Under Section 20(1) of the 1985 Act, in relation to any qualifying works *“the relevant contributions of tenants are limited ... unless the consultation requirements have been either (a) complied with ... or (b) dispensed with ... by ... the appropriate tribunal”*.
6. Under Section 20ZA(1) of the 1985 Act *“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..., the tribunal may make the determination if satisfied that it is reasonable to dispense with the requirements”*.

Tribunal's analysis

7. The Applicant has provided evidence of its having gone through stage one of the section 20 consultation process with leaseholders. It has also explained why the works are considered urgent for health and safety reasons. The bundle contains evidence that traces of legionella have been found in the water.
8. As is clear from the decision of the Supreme Court in *Daejan Investments Limited v Benson and others (2013) UKSC 14*, the key issue when considering an application for dispensation is whether the leaseholders have suffered any prejudice as a result of the failure to comply with the consultation requirements.
9. In this case, none of the Respondents has expressed any objections in relation to the failure to go through the full statutory consultation process, and there is no evidence before me that the leaseholders were in practice prejudiced by the failure to consult fully. Furthermore, I accept on the basis of the uncontested evidence before me that the carrying out of the works is urgent for health and safety reasons.
10. The tribunal has a wide discretion as to whether it is reasonable to dispense with the consultation requirements. In this case the Applicant has explained clearly and plausibly why the chemical dosing system needs to be installed as a matter of urgency, and no leaseholders have raised any objections or challenged the Applicant's factual evidence. I therefore consider that it is reasonable to dispense with the consultation requirements.
11. As is also clear from the decision of the Supreme Court in *Daejan v Benson*, even when minded to grant dispensation it is open to a tribunal to do so subject to conditions, for example where it would be appropriate to impose a condition in order to compensate for any specific prejudice suffered by leaseholders. However, as noted above, there is no evidence nor any suggestion that the leaseholders have suffered prejudice in this case.
12. Accordingly, I grant unconditional dispensation from compliance with the consultation requirements.
13. It should be noted that this determination is confined to the issue of consultation and does not constitute a decision on the reasonableness of the cost of the works.

Costs

14. There have been no cost applications.

Name: Judge P Korn

Date: 28 November 2023

RIGHTS OF APPEAL

- A. If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber) a written application for permission must be made to the First-tier Tribunal at the regional office dealing with the case.
- B. 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.
- C. If the application is not made within the 28 day time limit, such application must include a request for extension of time and the reason for not complying with the 28 day time limit; the Tribunal will then look at such reason and decide whether to allow the application for permission to appeal to proceed despite not being within the time limit.
- D. 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.