



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

**Case Reference** : **CAM/38UB/LDC/2023/0033**

**HMCTS code  
(paper, video, audio)** : **P: PAPERREMOTE**

**Property** : **Erdington House, Cresswell Close,  
Yarnton, Oxon OX5 1FZ**

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

**Respondents** : **The leaseholders named in the  
application**

**Type of application** : **For dispensation from consultation  
requirements - Section 20ZA of the  
Landlord and Tenant Act 1985**

**Tribunal member** : **Judge Wayte**

**Date of decision** : **25 September 2023**

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**DECISION**

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**The tribunal's decision**

**The tribunal determines under section 20ZA of the Landlord and Tenant Act 1985 to dispense with all the consultation requirements in relation to the works described in the statement of case; namely the replacement of the current emergency call system.**

## **The application**

1. The Applicant applied for dispensation from the statutory consultation requirements in respect of replacement of the current analogue emergency call system with a fully digital emergency call system. No details of the estimated cost of the works was given in the application.
2. The relevant contributions of the Respondents through the service charge towards the costs of these works would potentially be limited to a fixed sum unless the statutory consultation requirements, prescribed by section 20 of the Landlord and Tenant Act 1985 (the “**1985 Act**”) and the Service Charges (Consultation etc) (England) Regulations 2003:
  - (i) were complied with; or
  - (ii) are dispensed with by the tribunal.
3. The Applicant seeks a determination from the tribunal, under section 20ZA of the 1985 Act, to dispense with the consultation requirements. The tribunal has jurisdiction to grant such dispensation if satisfied that it is reasonable to do so.
4. In this application, the only issue for the tribunal is whether it is satisfied that it is reasonable to dispense with the consultation requirements. **This application does not concern the issue of whether any service charge costs of the relevant works will be reasonable or payable, or what proportion is payable.**

## **The property, the parties and the leases**

5. The Applicant is the relevant landlord of the Property, which is described in the application form as a mixture of leasehold and rental purpose-built 1 and 2 bedroom properties. The application form stated that there are 50 flats in total and 15 leasehold flats.
6. A sample lease was produced and it is assumed that all relevant leases are in the same form. The Landlord’s Services in clause 5.6 include arrangements for answering emergency calls, subject to the payment of the service charge.

## **Procedural history**

7. On 26 June 2023, the tribunal gave case management directions. The directions included a reply form for any Respondent leaseholder who objected to the application to return to the tribunal and the Applicant by 4 August 2023, indicating whether they wished to have an oral hearing. The directions provided that this matter would be determined

in the seven days commencing 14 August 2023 based on the documents, without a hearing, unless any party requested one.

8. The directions required the Applicant to serve the application and directions on the leaseholders by 17 July 2023. The directions assumed that the relevant documents would be made available by the Applicant on their website and ordered the Applicant to confirm to the tribunal that this had been done. On receipt of the hearing bundle, there was no confirmation of service and therefore further enquiries were made to ensure that the application had been properly brought to the attention of the leaseholders and they had been given an opportunity to object, should they so wish.
9. Eventually, on 19 September, the Applicant confirmed that both the application and the directions had been served on the leaseholders and provided confirmation from 9 of the leaseholders that they did not object to the application. Of the remainder, they had sadly died or been moved to a nursing home – the Applicant confirming that most of the residents are between 80-90 years old. I have therefore waived any of the requirements to place the documents on the website.

#### **The Applicant's case**

10. As indicated above, the Applicant provided a statement of case which set out in some detail the issues with the current emergency call system, which requires updating. Only one supplier had been identified and therefore it was not possible to obtain multiple quotes to comply with the statutory consultation requirements. The call system is an essential part of the service offered to the elderly residents.

#### **The Respondents' position**

11. As noted above, the directions provided for any Respondent who wished to oppose the application for dispensation to complete the reply form attached to the directions and send it to the tribunal and the Applicant. No responses were received and the Applicant provided evidence from 9 leaseholders that the application was unopposed.

#### **The tribunal's decision**

12. In the circumstances, based on the information provided by the Applicant (as summarised above), I am satisfied that it is reasonable to dispense with the statutory consultation requirements in relation to the relevant works.
13. **As noted above, this decision does not determine whether the cost of these works was reasonable or payable under the leases, or what proportion is payable under the lease(s), only**

**whether the consultation requirements should be dispensed with in respect of them.**

14. There was no application to the tribunal for an order under section 20C of the 1985 Act.

**Name:** Judge Wayte

**Date:** 25 September 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).