



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

Case reference	: MAN/ooCE/LDC/2023/0008
Property	: Rokeby Gardens, Queen Mary Crescent, Kirk Sandall, Doncaster, DN3 1BY
Applicant	: Housing 21
Respondents	: 52 Leaseholders
Type of application	: Dispensation with Consultation Requirements under section 20ZA Landlord and Tenant Act 1985
Tribunal member	: Judge J White Valuer J Elliot
HMCTS code	: P:PAPER REMOTE
Venue	: Northern Residential Property First-tier Tribunal, 1 floor, Piccadilly Exchange, 2 Piccadilly Plaza, Manchester, M1 4AH
Date of decision	: 26 January 2024

DECISION

The Tribunal grants this application to dispense retrospectively with the consultation requirements imposed by section 20 of the Landlord and Tenant Act 1985 without condition in respect of replacing the current emergency alarm system with a new Appello Smart Living Solutions system.

The Application

1. On 26 January 2023, the Applicant applied for dispensation from the statutory duty to consult in respect of urgent works to replace the emergency call system at Rokeby Gardens, Queen Mary Crescent, Kirk Sandall, Doncaster, DN3 1BY ("the Property"). At the same time they provided a copy of the lease.
2. The application sets out that Rokeby Gardens is an Extra Care facility with fifty-two two bedroom apartments. It is set over three floors. It has a meeting room and guest suite. The Property has an emergency call system, which is becoming increasingly unreliable. There is a limited number of other digital systems that offer general functionality comparable to the old analogue systems but have limited health and safety features. Analogue will shortly become defunct as it is being phased out by BT. The Appello Smart Living Solutions system is currently the only fully digital emergency call system available that uses secure encryption to authenticate and encrypt both data and speech and have all the functionality required. This includes onsite and offsite pathways, that is capable of handling unlimited simultaneous calls. This is of particular importance on their Extra Care sites where up to 10,000 calls per month can be made from any one site. Having this capability is a significant enhancement in supporting the safety of residents.
3. It has additional benefits:
 - a. 3 second connection speed to the monitoring centre;
 - b. Application for functionality on personal devices;
 - c. Flat to flat video calling;
 - d. Wi-Fi provision enabling customers to access the internet in their home;
 - e. Bluetooth provision enabling accessories to be added to help with simple tasks like answering the door from their chair;
 - f. An application to allow residents to use the system on a tablet from the comfort of their chair, whilst the main system is still mounted on the wall and permanently powered as the British Standards mandate.
4. On 21 October 2022 the Applicant started a consultation process in relation to other works. They have not done so in relation to the alarm system due to the health and safety issue and there being only one suitable supplier.
5. On 18 May 2023, the Tribunal issued Directions. The Directions stated that the Tribunal would determine the application on the papers, unless any party requested an oral hearing. No party has done so and the Tribunal has determined that it is able to make a fair decision without a hearing or inspection.
6. The Applicant was directed within 21 days to send to the leaseholders by email, hand delivery or first-class post: (i) copies of the application form (excluding any list of respondents' names and addresses) unless already sent by the applicant to the leaseholder/sublessee; (ii) if not already provided in the application, a brief statement to explain the reasons for the application; and (iii) the directions. The Applicant was further directed to display a copy of these in a prominent place in the common parts of the property.
7. On 6 September 2023, the Applicant confirmed that it had complied with this Direction.

8. Any leaseholder who opposed the application was directed to complete a Reply Form which was attached to the Directions and send it both to the Tribunal and to the Applicant. The leaseholder was further directed to send the Applicant a statement in response to the application. No leaseholder has returned a completed Reply Form opposing the application.

The Determination

9. 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 longterm agreement, the tribunal may make the determination if satisfied that it is reasonable to dispense with the requirements.”

10. **The only issue which this Tribunal has been required to determine is whether or not it is reasonable to dispense with the statutory consultation requirements. This application does not concern the issue of whether any service charge costs will be reasonable or payable.**

11. The Tribunal is satisfied that it is reasonable to grant dispensation from the statutory consultation requirements. This is justified by the health and safety needs for the works. There is no suggestion that any prejudice has arisen. In the circumstances, it is appropriate to grant dispensation without any conditions.

Judge J White

9 February 2024

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 **by e-mail** 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).