



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

Case reference : **LON/00AZ/LDC/2023/0196**
P:Paperremote

Property : **1-40 Axis House Lewisham London
SE13 6AD**

Applicant : **Trinity (Estates) Property
Management Limited**

Representative :

Respondent : **The leaseholders named on the
schedule attached to the application**

Type of application : **To dispense with the consultation
requirements under S.20 Landlord
and Tenant Act 1985**

Tribunal member : **Mrs E Flint FRICS**

**Date and venue of
determination** : **6 November 2023
Remote on the papers**

DECISION

This has been a remote hearing on the papers which has been consented to by the Applicant and not objected to by the Respondent. A face to face hearing was not held because it was not practicable, no-one requested the same, and all the issues could be determined on the papers. The documents that I was referred to were in an electronic bundle, the contents of which I have recorded.

Decision of the tribunal

- (1) The Tribunal grants dispensation from all of the consultation requirements under S.20 of the Landlord and Tenant Act 1985 in relation to repairs to the Automatic Opening Ventilation System and associated works .
- (2) The question of reasonableness of the works or cost was not included in this application, the sole purpose of which is to seek dispensation.

The Background

1. The application under section 20ZA of the Landlord and Tenant Act 1985 (“the Act”) was made by Trinity (Estates)Property Management Limited on 7 July 2023.
2. The application concerned urgent repairs to the Automatic Ventilation Opening System (AOC).
3. Directions were issued on 9 August 2023 requiring the applicant to prepare bundles by 25 October 2023 to include statements
 - (i) Setting out the full grounds for the application, including all of the documents on which the landlord relies and copies of any replies from the tenants;
 - (ii) The Leaseholders were asked to confirm by 27 September 2023 whether or not they would give their consent to the application.
 - (iii) In the event that such agreement was not forthcoming the leaseholders were to state why they opposed the application; and provide copies of all documents to be relied upon.
4. On 9 September 2023 Trinity (Estates) Property Management Limited, confirmed that in accordance with the Directions the leaseholders had each been sent a copy of the S20ZA application form, the applicant’s statement of case, a copy of the Directions and reply form.
5. The Leaseholders were informed in the Directions issued by the Tribunal that the question of reasonableness of the works or cost was not included in this application, the sole purpose of which is to seek dispensation.

The Evidence

6. Axis House Lewisham London SW13 6AD is a purpose-built development comprised of commercial premises on the ground floor with 40 flats above in two cores one of eight stories and the other five stories in height.
7. The building's exterior is clad with high pressure laminate. Following an external wall survey the building was classified as having a B" rating. The Developer has confirmed its intention to remediate the building. The inspection revealed that the AOC was not functioning properly in that the vents were not opening. The London Fire Brigade advised that unless remedial work was completed either the vents should be kept permanently open or a waking watch put in place. However, the Applicant was concerned that adverse weather could result in internal damage if the AOV was kept open permanently.
8. On 16 June 2023 Steve Charles Electrical was asked to quote to carry out the necessary repairs to the AOV so that it could fully function. The work being carried out included ensuring the system complies with BSEN-12101 and repairs to the control panel, photoelectric smoke detectors, fireman's overrides and cabling. The work also included new actuator arms to put back into service the AOV's. The AOVs were being kept permanently open at that time. The cost of the work was £20,144.16 inclusive of VAT.
9. It was considered that the work was urgent, as the alternative of a waking watch was considered to be very expensive. Consequently, no formal consultation was undertaken although the leaseholders were sent letters explaining the position. It was considered imperative that the AOV should be returned to working order as quickly as possible as being the most cost effective solution to the problem. The cost of the work exceeded the Section 20 limit.
10. None of the leaseholders had objected to the work.

The Decision

11. The relevant test to be applied in an application for dispensation was set out by the Supreme Court in *Daejan Investments Ltd v Benson & Ors* [2013] UKSC 14 where it was held that the purpose of the section 20 consultation procedure was to protect tenants from paying for inappropriate works or paying an inappropriate amount. Dispensation should not result in prejudice to the tenant.

12. The Tribunal determines from the evidence before it that the applicant took all reasonable steps to undertake the repairs in a timely manner to ensure that the building safety was dealt with promptly. There have been no objections from any leaseholder and no prejudice to the lessees has been demonstrated or asserted.
13. On the evidence before it, and in these circumstances, the Tribunal considers that the application for dispensation be granted.

Name: Evelyn Flint

Date: 6 November 2023

RIGHTS OF APPEAL

1. 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.
2. 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 should be made on Form RP PTA available at <https://www.gov.uk/government/publications/form-rp-pta-application-for-permission-to-appeal-a-decision-to-the-upper-tribunal-lands-chamber>
3. 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.
4. 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.
5. 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.