



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

**Case reference** : **LON/00AY/LDC/2024/0080**

**Property** : **The Academy Vauxhall, 20 Lawn Lane,  
London SW8 1GA**

**Applicant** : **The Academy Vauxhall Limited**

**Representative** : **Strangford Management Limited**

**Respondents** : **The leaseholders of the Property**

**Type of Application** : **Application for the dispensation of  
consultation requirements pursuant to  
S.20ZA of the Landlord and Tenant Act  
1985**

**Tribunal Member** : **Judge Hugh Lumby**

**Venue** : **Paper determination**

**Date of Decision** : **11<sup>th</sup> June 2024**

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**DECISION**

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## **Decision of the Tribunal**

The Tribunal grants the application for the dispensation of all or any of the consultation requirements provided for by section 20 of the Landlord and Tenant Act 1985 (Section 20ZA of the same Act).

### **The background to the application**

1. The Property is a block of apartments, comprising 55 flats.
2. The application was made in the name of Strangford Management Limited who are the managing agents of the Property. The freeholder of the Property is The Academy Vauxhall Limited, a company owned by the leaseholders of the Property. The freeholder is the appropriate applicant in this case and it is clear that the application was made on its behalf. It has therefore been substituted as Applicant in place of Strangford Management Limited. The Respondents are the leaseholders.
3. The Applicant's managing agent has applied for dispensation from the statutory consultation requirements in respect of works to install compliant emergency lighting systems and exit signage in the communal areas of the Property. The application was received on 11 March 2024.
4. The managing agent explained that, following discussions with the Applicant, it was decided that the existing emergency lighting system in the Property is not fit for purpose, principally on the basis that there are inaccurate instructions on the exit signs throughout the Property and that there is insufficient coverage of lighting under fault conditions.
5. On 26 February 2024, the Applicant's managing agent served a notice on behalf of the Applicant pursuant to section 20 of the Landlord and Tenant Act 1985 on the leaseholders of the Property in relation to the proposed works, inviting observations and nominations of potential contractors. The Applicant's managing agents have stated that no responses were received to that notice.
6. The consultation carried out was a Stage 1 consultation. However, on 27 February 2024, the Applicant's board decided that the works were sufficiently urgent that they should proceed without further consultation. The reasons given for that decision were that the deficiencies in the lighting and signage could mean that residents might be harmed as a result in an emergency. The Applicant argues that it is paramount that sufficient lighting is provided in case of emergency.
7. Quotations were obtained from two contractors for the works. The bundle contains quotations from one of those contractors, with the total

being £8,406.49 plus VAT. It is understood that this was the most competitive of the quotations received.

8. The works have now been completed.
9. The Applicant's managing agents argue in the application that the 26 February 2024 section 20 Notice of Intent was posted and emailed to leaseholders, was uploaded to their client portal and it "tried all methods of communication to engage with the leaseholders to avoid any prejudice". It states that no objections were received.
10. The Tribunal issued Directions dated 24 April 2024 in relation to the conduct of the case. It was decided in those Directions that the application be determined without a hearing, by way of a paper case. No parties have objected to this decision.
11. The Applicant confirmed on 2 May 2024 that all Respondents were each provided with application to the Tribunal for dispensation on 13 March 2024. No confirmation was provided that the Tribunal's Directions had been served on the Respondents and, as those Directions were not issued until April, they cannot have been served with the application. The Applicant has confirmed that no responses (and so no objections) were received to the application.
12. The Tribunal did not inspect the Property as it considered the documentation and information before it in the set of documents prepared by the Applicant enabled the Tribunal to proceed with this determination.
13. This has been a paper determination which has not been objected to by the parties. The documents that were referred to are in a bundle consisting of 70 pages, comprising the application form and accompanying documents (including a list of all the leaseholders), the Tribunal's Directions dated 24 April 2024, emails confirming the agreement of the Applicant's board to the application, quotations for the works, a specimen lease and a copy of the 26 February 2024 section 20 Notice of Intent.

### **The issues**

14. The only issue for the Tribunal to decide is whether or not it is reasonable to dispense with the statutory consultation requirements. This application does not concern the issue of whether or not service charges will be reasonable or payable. The Tribunal has made no determination on whether the costs are payable or reasonable. If a Lessee wishes to challenge the payability or reasonableness of those costs as service charges, including the possible application or effect of the Building Safety Act 2022, then a separate application under section 27A of the Landlord and Tenant Act 1985 would have to be made.

## Law

15. Section 20 of the Landlord and Tenant Act 1985 (as amended) (“the 1985 Act”) and the Service Charges (Consultation Requirements) (England) Regulations 2003 require a landlord planning to undertake major works, where a leaseholder will be required to contribute over £250 towards those works, to consult the leaseholders in a specified form.
16. Should a landlord not comply with the correct consultation procedure, it is possible to obtain dispensation from compliance with these requirements by an application such as this one before the Tribunal. Essentially the Tribunal must be satisfied that it is reasonable to do so.
17. The Applicant seeks dispensation under section 20ZA of the 1985 Act from all the consultation requirements imposed on the landlord by section 20 of the 1985 Act.
18. Section 20ZA relates to consultation requirements and provides as follows:

*“(1) Where an application is made to a leasehold valuation tribunal for a determination to dispense with all or any of the consultation requirements in relation to any qualifying works or qualifying long term agreement, the tribunal may make the determination if satisfied that it is reasonable to dispense with the requirements.*

*(2) In section 20 and this section—*

*“qualifying works” means works on a building or any other premises, and “qualifying long term agreement” means (subject to subsection (3)) an agreement entered into, by or on behalf of the landlord or a superior landlord, for a term of more than twelve months.*

*....*

*(4) In section 20 and this section “the consultation requirements” means requirements prescribed by regulations made by the Secretary of State.*

*(5) Regulations under subsection (4) may in particular include provision requiring the landlord—*

*(a) to provide details of proposed works or agreements to tenants or the recognised tenants’ association representing them,*

*(b) to obtain estimates for proposed works or agreements,*

*(c) to invite tenants or the recognised tenants’ association to propose the names of persons from whom the landlord should try to obtain other estimates,*

*(d) to have regard to observations made by tenants or the recognised tenants’ association in relation to proposed works or agreements and estimates, and*

*(e) to give reasons in prescribed circumstances for carrying out works or entering into agreements.*

19. In the case of *Daejan Investments Limited v Benson* [2013] UKSC 14, by a majority decision (3-2), the Supreme Court considered the dispensation provisions and set out guidelines as to how they should be applied.
20. The Supreme Court came to the following conclusions:
  - a. The correct legal test on an application to the Tribunal for dispensation is: “Would the flat owners suffer any relevant prejudice, and if so, what relevant prejudice, as a result of the landlord’s failure to comply with the requirements?”
  - b. The purpose of the consultation procedure is to ensure leaseholders are protected from paying for inappropriate works or paying more than would be appropriate.
  - c. In considering applications for dispensation the Tribunal should focus on whether the leaseholders were prejudiced in either respect by the landlord’s failure to comply.
  - d. The Tribunal has the power to grant dispensation on appropriate terms and can impose conditions.
  - e. The factual burden of identifying some relevant prejudice is on the leaseholders. Once they have shown a credible case for prejudice, the Tribunal should look to the landlord to rebut it.
  - f. The onus is on the leaseholders to establish:
    - i. what steps they would have taken had the breach not happened and
    - ii. in what way their rights under (b) above have been prejudiced as a consequence.
16. Accordingly, the Tribunal had to consider whether there was any prejudice that may have arisen out of the conduct of the applicant and whether it was reasonable for the Tribunal to grant dispensation following the guidance set out above.

### **Consideration**

17. Having read the evidence and submissions from the Applicant and having considered all of the documents and grounds for making the application provided by the Applicant, the Tribunal determines the dispensation issues as follows.

18. The Tribunal is of the view that, taking into account that there have been no objections from the Respondents to the section 20 Notice of Intention or the application, it could not find prejudice to any of the leaseholders of the Property by the granting of dispensation relating to the installation of compliant emergency lighting systems and exit signage in the communal areas of the Property. The communal areas in any event need to comply with applicable legislation and regulations and, by carrying out the works, the freeholder ensured a reduction of risk in an emergency. The Tribunal also noted that the Applicant is owned by the Respondents and its board of directors approved the works. The Tribunal cannot identify a prejudice that would outweigh these considerations.
19. The Applicant believes that the works were urgent to ensure that residents were not at risk from inadequate lighting or incorrect signage in the event of emergency. On the evidence before it, the Tribunal agrees with this conclusion and believes that it is reasonable to allow dispensation in relation to the subject matter of the application.
20. However, the Tribunal is concerned that, notwithstanding its Directions, no confirmation has been received from the Applicant's managing agents that the Directions were served on the Respondents. If they were not served with the Directions, it is possible that leaseholders may have raised objections. That said, the leaseholders were given an opportunity to comment on the works and nominate contractors through the Stage 1 consultation that was carried out and no objections were raised at that stage. In addition, they were given notice of the application for dispensation and no objections were received at that stage. Thirdly, as the Applicant is owned by the Respondents and its board approved the works proceeding urgently, there was an active involvement in the process from at least some of the Respondents. Finally, the Tribunal considers that the inadequate lighting and signage presented a risk to residents in emergency and so no prejudice could have been identified in the unlikely event of an objection. The Tribunal therefore finds, on balance, that the Respondents were all sufficiently aware of the process and their rights to object. It therefore finds that dispensation should be granted notwithstanding any procedural failings by the managing agents.
21. The Tribunal therefore grants the Applicant's application for dispensation from the consultation requirements of section 20 of the Landlord and Tenant Act 1985 in respect of the works the subject of its application.
22. The Applicant shall place a copy of the Tribunal's decision on dispensation together with its Directions dated 24 April 2024 and an explanation of the leaseholders' appeal rights on its website (if any) within 7 days of receipt and shall maintain it there for at least 3 months, with a sufficiently prominent link to both on its home page. It should also be posted in a prominent position in the communal areas.

**Name:** Tribunal Judge Lumby

**Date:** 11 June 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 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).