



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

Case Reference : **LON/00AC/LDC/2024/0081**

Property : **1-37 Aqua House, Agate Close, London,
NW10 7FF**

Applicant : **First Central Residents Management Co
Ltd**

Representative : **Trinity Estates**

Respondents : **Various leaseholders of Aqua House**

Representative : **In person**

Type of Application : **For dispensation from the consultation
requirements under section 20ZA
Landlord & Tenant Act 1985**

Tribunal : **Mr R Waterhouse BSc (Hons) LLM
Property Law MA FRICS**

Date of Decision : **30 July 2024**

DECISION

This has been a remote paper determination, which has been consented to by the parties. A face-to-face hearing was not held because it was not practicable, and no one requested same.

The documents the Tribunal were referred to were in a bundle of some 62 pages.

Decision

- (1) The tribunal determines that unconditional dispensation should be granted from the consultation requirements from section 20ZA of the Landlord and Tenant Act 1985 (the Act) in respect of the property 1-37 Aqua House, Agate Close, London, NW10 7FF, Pimlico, London SW1V 3EL.**
- (2) We make no determination as to the reasonableness of the costs of same, these being matters which can be considered, if necessary, under the provisions of s27A and s19 of the Act.**

The Application

1. This Application is made by First Central Residents Management Co Ltd dated **22 February 2024**.
2. The Application seeks dispensation from the consultation requirements under section 20ZA of the Landlord and Tenant Act 1985.
3. The Application is concerned solely with the question of what consultation if any should be given of the consultation requirements of section 20 of the 1985 for works costing in excess of £250 per flat. It is not concerned with the reasonableness or payability of any service charges which may arise.

The Determination

4. A written Application was made by Trinity Estates on behalf of First Central Residents Management Co Ltd dated 22 February 2024. The case was decided on paper and no appearances were made. The tribunal considered the written bundle of 62 pages, in support of the Application.

Background

5. The property comprises; 37 flats within a high-rise development.

6. The Applicant in this case is a residents owned company limited by guarantee.
7. This Application has been issued because;

“The Automatic Opening Ventilation system (“the AOV”) at the building wasn’t functioning properly, namely the vents were not opening on floors 5,6 & 7.”
8. An accompanying letter to residents dated 24 June 2024 noted that “we have been working with London Fire Service to ensure that the building is safe for yourselves as property owners and residents and therefore to mitigate the current risk, and the London Fire Brigade along with our Risk assessors have confirmed no additional interim measures need to be installed but highlighted that this does need to be repaired as soon as possible.”
9. The application at box three states the application is being made retrospectively.
10. The Directions dated 20 May 2024, provided for the tenants to be given copies of the Application form, a brief statement to explain the reasons for the Application and display a copy of the directions in a prominent place in the common parts of the property, by 3 June 2024.
11. The Directions also note that any leaseholder who opposes the Application should by the **24 June 2024** complete the reply form and return it to the tribunal.
12. The only issue for the tribunal is whether or not it is reasonable to dispense with the statutory consultation requirements of section 20 of the 1985 Act. **This application does not concern the issue of whether any service charge costs will be reasonable or payable.**

Documents

13. By email dated **23 May 2024** the applicant confirmed that the Directions in respect of distribution of copies of directions and display of in communal area had taken place. The tribunal has received no copies of Reply Forms from any leaseholders.

1The tribunal’s decision

14. The tribunal grants dispensation under section 20 ZA of the Landlord and Tenant Act 1985 and the Service Charges (Consultation) (England) 2003 for the works set out in the application.
15. We are, aware of the judgment in Daejan Investments Limited v Benson and others [2013] UKSC 14. The application for dispensation is not challenged.
16. The Supreme Court (Lord Neuberger at para 50) accepted that there must be real prejudice to the tenants. Indeed, the Respondents do not oppose the application. It is accepted that we have the power to grant dispensation on such terms as we think fit. However, the Landlord is entitled to decide the identity of the contractors who carry out the work, when they are done, by whom and the amount. The safety net for the Respondents is to be found in sections 19 and 27A of the Landlord and Tenant Act 1985.
17. Accordingly, we find that unconditional dispensation should be granted. In making our decision we have borne in mind the quotes which we were referred, which in our finding clearly indicate that works are required at the Property.
18. Our decision is in respect of the dispensation from the provisions of s20 of the Act only.

Richard Waterhouse

Name:	Richard Waterhouse LLM FRICS	30 July 2024.
--------------	---	--------------------------

ANNEX – RIGHTS OF APPEAL

- 1. 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 at the Regional Office which has been dealing with the case.**
- 2. 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.**
- 3. If the application is not made within the 28-day time limit, such application must include a request to 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.**

- 4. The application for permission to appeal must identify the decision of the Tribunal to which it relates (ie 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**