



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

**Case Reference** : **LON/00BA/LDC/2022/0247**

**Property** : **Pantiles House, Langley Road  
Merton, London SW19 3AN**

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

**Representative** : **Tracy Jones (Manager)**

**Respondents** : **Leaseholders of 10No. Flats  
(No.s 8 9 10 14 15 16 17 18 19 22)**

**Representative** : **None**

**Interested Party** :

**Type of Application** : **S20ZA of the Landlord and Tenant  
Act 1985 - dispensation of  
consultation requirements**

**Tribunal** : **N. Martindale FRICS**

**Hearing Centre** : **10 Alfred Place  
London WC1E 7EB**

**Date of Decision** : **25 July 2024 (on papers)**

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**DECISION**

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## **Decision**

1. The Tribunal does not grant dispensation from any of the requirements on the applicant to consult the leaseholders under S.20ZA of the Landlord and Tenant Act 1985, in respect of the qualifying works referred to; being the replacement of the existing emergency assistance call system serving flats at the Property and which are funded by the 10No. leasehold flats.

## **Background**

2. The landlord applied to the Tribunal under S20ZA of the Landlord and Tenant Act 1985 (“the Act”) for the dispensation from all or any of the consultation requirements contained in S20 of the Act.
3. The application was about the replacement of an existing emergency assistance call system serving at least the 10No. leasehold flats here.

## **Directions**

4. The application is dated **2 December 2022**. Tribunal Directions dated 28 April 2023, were issued by Emmanuel Okolo Legal Officer. They clearly state to both parties that failure to comply can result in the strike out of an application, or a bar on a respondent participating.
5. The applicant was to send the application form and supporting documents to each of the respondents and to display a copy of same by 19 May 2023. They were to confirm compliance, back to the Tribunal by 29 May 2023. Those leaseholders who objected had until 16 June 2023 to make that clear to the landlord and the landlord could make brief reply to them by 30 June 2023. The trial bundle was to be assembled & filed by 14 July 2023.
6. The Directions provided for the Tribunal to determine the application on or after **23 July 2023**, (again almost exactly a year ago). That was unless a party had applied for a hearing. No request was received by the Tribunal by the date directed.
7. However for reasons unclear to the Tribunal the applicant failed to comply with these Directions and the matter was left in limbo for around a year. As it happens the Tribunal allowed the applicant additional time for compliance which the applicant met rather than simply striking it out entirely. A bundle supplied by the applicant June 2024, a year late.

## **Applicant’s Representations**

8. The Property appears to be a modern, post 2000, purpose built and substantial but, low rise residential block of flats on 3 levels. The applicant referred to 10No. specific flats but, not the remainder. It was unclear why

some flats were selected and others were not. It may have been because some were long leasehold and others rented but, no explanation is offered.

9. The application form described the Property as *“Court comprises 23 one-bedroom apartments 10 two-bedroom apartments (apartments are located on 4 floors) with 10 shared ownership apartments located on the ground and first floor.”*
10. The form stated that the application concerns qualifying works and confirmed they had not been started. The applicant was content that the matter can be decided on paper. A hearing was not required.
11. The agent stated that the application was especially urgent and should be directed to the ‘fast track’ based on: *“Due to the increasing unreliability of the emergency call systems, we wish to pursue the replacements asap.”*
12. Under ‘Grounds for Seeking Dispensation’ in the Form, the applicant stated at Box 1: *‘It is the desire to replace the emergency call system asap’.*
13. Regarding consultation the applicant stated at Box 2: *“No consultation has been carried out to date. If the dispensation request is permitted, letters will be distributed to all leaseholders explaining the rationale for the replacement with all costs associated. The works will start no sooner than 30 days after receipt of the letter.”*
14. At ‘Explain why you seek dispensation of all or any of the consultation requirements.’ The applicant stated at box 3: *“The chosen Appello Smart Living Solutions system is currently the only fully digital emergency call system available that used secure encryption to authenticate both data and speech. There is a limited number of other digital systems that offer general functionality comparable systems but have limited health and safety features in comparison with the Appello system.”*
15. The remainder of the applicant’s statement in box 3 sets out the alleged need for the applicant to adopt a new system in general and this named one in particular. It lists the many features and strengths.

### **Respondent’s Representations**

16. The applicant represented to the Tribunal that none of the 10 leaseholders referred to had made any response to the application. The Tribunal had no record of any receiving responses from leaseholders.

### **The Law**

17. S.18 (1) of the Act provides that a service charge is an amount payable by a tenant of a dwelling as part of or in addition to the rent, which is payable

for services, repairs, maintenance, improvements or insurance or landlord's costs of management, and the whole or part of which varies or may vary according to the costs incurred by the landlord. S.20 provides for the limitation of service charges in the event that the statutory consultation requirements are not met. The consultation requirements apply where the works are qualifying works (as in this case) and only £250 can be recovered from a tenant in respect of such works unless the consultation requirements have either been followed or dispensed with.

18. Dispensation is dealt with by S.20 ZA of the Act which provides:-  
**“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.”**

19. The consultation requirements for qualifying works under qualifying long term agreements are set out in Schedule 3 of the Service Charges (Consultation Requirements) (England) Regulations 2003 as follows:-

**1(1) The landlord shall give notice in writing of his intention to carry out qualifying works –**

- (a) to each tenant; and**
- (b) where a recognised tenants' association represents some or all of the tenants, to the association.**

**(2) The notice shall –**

- (a) describe, in general terms, the works proposed to be carried out or specify the place and hours at which a description of the proposed works may be inspected;**
- (b) state the landlord's reasons for considering it necessary to carry out the proposed works;**
- (c) contain a statement of the total amount of the expenditure estimated by the landlord as likely to be incurred by him on and in connection with the proposed works;**
- (d) invite the making, in writing, of observations in relation to the proposed works or the landlord's estimated expenditure**
- (e) specify-**
  - (i) the address to which such observations may be sent;**
  - (ii) that they must be delivered within the relevant period; and**
  - (iii) the period on which the relevant period ends.**

**2(1) where a notice under paragraph 1 specifies a place and hours for inspection-**

**(a) the place and hours so specified must be reasonable; and  
(b) a description of the proposed works must be available for inspection, free of charge, at that place and during those hours.**

**(2) If facilities to enable copies to be taken are not made available at the times at which the description may be inspected, the landlord shall provide to any tenant, on request and free of charge, a copy of the description.**

**3. Where, within the relevant period, observations are made in relation to the proposed works or the landlord's estimated expenditure by any tenant or the recognised tenants' association, the landlord shall have regard to those observations.**

**4. Where the landlord receives observations to which (in accordance with paragraph 3) he is required to have regard, he shall, within 21 days of their receipt, by notice in writing to the person by whom the observations were made state his response to the observations.**

## **Decision**

20. The scheme of the provisions is designed to protect the interests of leaseholders. Whether it is reasonable to dispense with any particular requirements in an individual case must be considered in relation to the scheme of the provisions and its purpose.
21. The Tribunal must have a cogent reason for dispensing with the consultation requirements. The purpose of consultation is that leaseholders who may ultimately pay the bill are fully aware of what works are being proposed, the cost thereof and have the opportunity to nominate contractors.
22. The Tribunal is disturbed by the chronic lack of timely compliance with the Directions by the applicant. This was to the extent that it provided the bundle a year late and then only after Tribunal prompting. The applicant claims installation is urgent: The Tribunal is entirely unconvinced.
23. The Tribunal finds the statement in the Form at Box 3 in particular, reads like an extract from the technical sales promotion of a particular telecommunication system 'solution' to the need for a more modern emergency calls provision. At no point are any alternatives raised let alone details provided and are never expressly considered.

24. The applicant provides no timescale for the work, provides no notion of the extent of works; of disruption to leaseholders. There is no price, not even an indicative price for the total capital works to the entire Property: no price to the group of 10 leasehold flats; let alone a price to the individual leaseholders. There is not even indicative pricing for the expected annual maintenance service thereafter, though it is likely to be running and significant for many years to the leaseholders in particular.
25. The Tribunal notes that statement at box 3 in particular, was prepared and filed in December 2022 some 18 months ago. In an area of modern technology where new providers and indeed other solutions may have since emerged, the applicant failed to even attempt to make any update on the information about, or the arguments for the application in June 2024. There is not even a simple confirmation that these arguments have since been reviewed by the applicant but, remain current.
26. The application could have easily been struck out for a chronic failure by the applicant to comply with simple Directions in a complete and timely fashion but, fortunately for the applicant it was not.
27. The Tribunal entirely and comprehensively rejects this application for dispensation. The applicant should take care to fully consult all leaseholders affected by and who might be required to contribute to the cost of the works. The applicant must comply with the statutory regulatory requirements to consult.
28. The Tribunal considers that it is possible that owing to the severe delay in preparing and bringing this application to the consideration of the Tribunal, this work or any part of it has by now started without consultation or grant of dispensation. In that case the maximum sum to be rechargeable to each contributory leaseholder of flats in the Property, for these particular works only, will be capped at £250.
29. The Tribunal makes Orders under S.20C of the Landlord and Tenant Act 1985 and under Paragraph 5a of Schedule 11 to the Commonhold and Leasehold Reform Act 2002, barring recovery of the landlord's costs of this application under the lease, from any of the leaseholders.
30. **In making its determination of this application, it does not concern the issue of whether any service charge costs are reasonable or indeed payable by the leaseholders. The Tribunal's determination is limited to this application for dispensation of consultation requirements under S20ZA of the Act.**

## **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 either party is dissatisfied with this decision, they may apply for permission to appeal to the Upper Tribunal (Lands Chamber) on any point of law arising from this Decision.

Prior to making such an appeal, an application must be made, in writing, to this Tribunal for permission to appeal. Any such application must be made within 28 days of the issue of this decision to the person making the application (regulation 52 (2) of The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rule 2013).

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).