



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

**Case Reference** : **LON/00AJ/LDC/2023/0197**

**Property** : **85/88 Old Circus, Northolt, Middlesex  
UB5 4RU**

**Applicant** : **Southern Land Securities Ltd**

**Representative** : **Together Property Management Ltd**

**Respondents** : **Sathy Estates (1) , Oldfield Circus  
Residents Management Company (2)**

**Representative** : **None**

**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** : **1 October 2024**

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## DECISION

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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 246 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 85/88 Old Circus, Northolt, Middlesex, UB5 4RU.**
- (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 Together Property Management Ltd on behalf of, the freeholder, Southern Land Securities Ltd dated 18 July 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 Together Property Management Ltd, appointed by 77 Southern Land Securities Ltd the freeholder. The tribunal considered the written bundle of 77 pages, in support of the Application.

### **Background**

5. The property comprises; a double fronted retail unit to the ground floor. Originally the residential part of the property was constructed over first and second floors only but has been extended to a third floor by the construction of a number of mansard windows into the existing roof void. The layout of the residential units are flats 86 and 88 having their own entrance doors directly off a walkway access via a staircase to the rear with all upper floor flats, accessed through a communal entrance door, located between the above-mentioned properties.
6. This Application has been issued because according to the box titled "Grounds for Seeking Dispensation" it was noted that scaffolding was required to access the two roof level rain water outlets, as they were blocked and were causing water to go onto the public below Due to the height scaffolding was required and an engineer attended to pressure clean the outlets. The scaffolding cost was £1917 including VAT and the drainage contractors cost £420 including VAT.
7. Dispensation is sought by the Landlord for the works due to the health and safety of the general public. The Landlord noting, as the rainwater outlets were blocked causing water to cascade down the wall, due to the time of year and cold weather conditions the works were considered as urgent as the Landlord did not wish the ground water to freeze and have a member of the public fall. Therefore, the works were undertaken immediately to reduce the risk, of having to wait for the section 20 process to be completed.
8. The Directions dated **17 August 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. This to be done by the **26 August 2024** and the Tribunal notified as such by the **29 August 2024**.
11. The Directions also note that any leaseholder who opposes the Application should by the **9 September 2024** complete the reply form and return it to the tribunal. The Landlord may by the **16 September 2024** provide a brief reply to any leaseholder who opposes the Application.
12. By Witness Statement of Karen Young of Together Property Management Ltd dated 16 September 2024 the Landlord confirms that they have conformed

with the Directions. Additionally, the Landlord notes they have received an objection from one leaseholder **Sunbright**.

13. 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. The Applicant includes their Application in the Bundle. Sunbright who opposes the Application submitted a witness statement and further supporting documentation. Sunbright's concerns centre on several matters including; choice of contractor, quality of work carried out and whether the works were of an urgent nature.
14. The Landlord in their Reply, page 53 of the Bundle, to Sunbright's objection noted the scaffolding was required to gain access to the affected site so that a CCTV survey could be carried out to ascertain the issue and for debris to be removed.

### **The tribunal's decision**

15. The Tribunal notes the concern of the opposing leaseholder Sunbright. The concerns expressed do not in themselves cause there to be prejudice to the leaseholders. 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.
16. We are, aware of the judgment in *Daejan Investments Limited v Benson and others* [2013] UKSC 14. The application for dispensation is not challenged.
17. 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.

18. 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.
19. Our decision is in respect of the dispensation from the provisions of s20 of the Act only. It is open to the opposing leaseholder or others to apply under the Landlord and Tenant Act 1985 Section 27A, should there be concerns over the payability and reasonableness of the service charge, these may include concerns over necessity, quality of work and its cost.

*Richard Waterhouse*

<b>Name:</b>	<b>Richard Waterhouse LLM FRICS</b>	<b>1 October 2024.</b>
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#### **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**