



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

Case Reference : **LON/00AY/LDC/2024/0161**

Property : **The Tower, One St George Wharf,
London, SW8 2DU**

Applicant : **Berkeley Seventy-Seven Ltd**

Representative : **Residential Management Group Ltd**

Respondents : **Various leaseholders, The Tower, One
St Georges Wharf, London. SW8 2DU**

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**

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 70 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; The Tower, One St Georges Wharf, London SW8 2DU.**
- (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 Rendall and Ritter on behalf of, the freeholder, Berkeley Seventy-Seven Ltd dated 2 May 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 Residential Mangement Group Limited, appointed by Berkeley Seventy-Seven Ltd the freeholder. The tribunal considered the written bundle of 70 pages, in support of the Application.

Background

5. The property comprises; a Tower which is located in Vauxhall, being completed in January 2014. It stands 181m tall and houses 212 luxury

apartments. The building is made up of a ground floor reception area, underground parking, a swimming pool and a gym. There are 52 floors in total above ground, and one underground parking level, the top floors house a luxury 5 storey luxury penthouse, with an integrated wind turbine.

6. This Application has been issued by the Freeholder, asserting. the works comprise an urgent software upgrade of Building Management System, that has a closed Protocol, which prevents the Landlord from completing a full tender process, under Section 20 requirements. The current operating software is out of date and not compatible, with the latest BMS interface which makes operation and maintenance methods insufficient. The system has a closed protocol which means only one company can do any work to it this company is called Saulter. The Freehold has received a quotation from the encumbrant service provider- Saulter- to upgrade this system and the total cost of the works inclusive of VAT is £ 81574.72. The BMS controls several utilities within the building and therefore the flats this includes the heating, hot and cold water and electricity. The implications for this software not being upgraded by Saulter are that if it crashes then nobody will be able to access it and the building will need a whole new BMS system. Automatic control of the system will be lost and will result in it needing to be manually operated 24/7 but without but without any real knowledge of what the temperatures are.
7. The Directions dated **8 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 carried out by the **16 August 2024**, the freeholder to confirm this is done by **22 August 2024**.
8. The Directions also note that any leaseholder who opposes the Application should by the **4 September 2024** complete the reply form and return it to the tribunal.
9. 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

10. The Applicant notes in their statement of case, dated September 2024, the Residential Management Group Ltd, who replaced Randell and Ritter as agents to Berkeley Seventy – Seven Ltd in place of Randell and Ritter, that (i) the Directions in respect of display and communication have been

complied with and (ii) they were not aware of any leaseholders who opposed the application for dispensation.

The tribunal's decision

11. 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.
12. We are, aware of the judgment in Daejan Investments Limited v Benson and others [2013] UKSC 14. The application for dispensation is not challenged.
13. 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.
14. Accordingly, we find that unconditional dispensation should be granted.
15. Our decision is in respect of the dispensation from the provisions of s20 of the Act only.

Richard Waterhouse

Name:	Richard Waterhouse LLM FRICS	1 October 2024.
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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 Tribunal 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**