



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

Case Reference : **MAN/30UH/LDC/2024/0607**

Property : **Opus Building, Queens Square,
Station Road, Morecambe LA4 5JL**

Applicant : **Opus Morecambe RTM Co. Ltd**

Representative : **Lee Williams, Block Buddy Ltd**

Respondents : **Various Residential Long
Leaseholders**

Type of Application : **Section 27A Landlord and Tenant Act
1985 – Section 20ZA**

Tribunal Members : **Tribunal Judge J.E. Oliver
Tribunal Member H. Lewis**

**Date of
Determination** : **24th January 2025**

Date of Decision : **24th January 2025**

DECISION

Decision

1. The application to dispense with the consultation requirements imposed by Section 20 of the Landlord and Tenant Act 1985 (“the Act”) and The Service Charges (Consultation Requirements) (England) Regulations 2003 relating to the installation of a fire alarm at Opus Buildings, Station Road, Morecambe, in order to comply with BS5839, is granted.

Background

2. This is an application made by Opus Morecambe RTM Co. Ltd (“the Applicant”) for the dispensation of the consultation requirements imposed by Section 20 of the Landlord & Tenant Act 1985 (“the Act”) and The Service Charges (Consultation Requirements) (England) Regulations 2003 (“the Consultation Requirements”) relating to the installation of a fire system that complies with BS5839 as required by Lancashire Fire and Rescue Service. Such works are qualifying works as defined by section 20 of the Act.
3. The Fire Service has served an Enforcement Notice upon the Applicant requiring the work to be completed by 1200 on 21st November 2024, failing which a prosecution of the Applicant would be considered.
4. The Applicant has an obligation to maintain the fire alarm under the terms of the Leases under which the properties comprising Opus Buildings (‘the Property’) are held. This is a 5-storey purpose-built block containing 41 apartments over the 5 floors.
5. Block Buddy Limited are employed by the Applicant to manage the Property. They have secured four quotes for the cost of the replacement fire alarm system, the cheapest being £85044.00.
6. Under the requirements of Section 20 of the Act, the Applicant served a Notice of Intention to the various leaseholders dated 21st October 2024, to which no observations were received. The Notice advised of the need to install a hard-wired Fire Alarm System. In a separate letter to the leaseholders the estimated cost was given as £85044 inclusive of VAT.
7. The time limit of 21st November 2024 meant the Applicant could not comply with the section 20 of the Act and it therefore filed an application with the Tribunal for its permission to dispense with its requirements.
8. The application to the Tribunal is dated 21st October 2024 and in respect of which directions were issued on 24th October 2024 providing for the filing of any objections by the Respondents and for the application to be determined without a hearing.
9. The Respondents made no response to the application.
10. The matter was listed for a determination on 24th January 2025.

The Law

11. Section 20 of the Act provides:

(1) Where this section applies to any qualifying works or qualifying long term agreement, the relevant contributions of tenants are limited in accordance with subsection (6) or (7) (or both) unless the consultation requirements have

been either-

- (a) complied with in relation to the works or agreement, or
- (b) dispensed with in relation to the works or agreement by (or on appeal from) a tribunal

(2) In this section “relevant contribution”, in relation to a tenant and any works or agreement, is the amount which he may be required under the terms of his lease to contribute (by the payment of service charges) to relevant costs incurred on carrying out the works or under the agreement

(3) This section applies to qualifying works if relevant costs incurred on carrying out the works exceed an appropriate amount.

(4) The Secretary of State may by regulations provide that this section applies to a qualifying long term agreement-

- (a) if relevant costs incurred under the agreement exceed an appropriate amount, or
- (b) if relevant costs incurred under the agreement during a period prescribed by the regulations exceed an appropriate amount.

(5) An appropriate amount is an amount set by regulations made by the Secretary of State; and the regulations may make provision for either or both of the following to be the appropriate amount-

- (a) an amount prescribed by, or determined in accordance with, the regulations, and
- (b) an amount which results in the relevant contribution of any one or more tenants being an amount prescribed by, or determined in accordance with the regulations.

(6) Where an appropriate amount is set by virtue of paragraph (a) of subsection (5), the amount of the relevant costs incurred on carrying out the works or under the agreement which may be taken into account in determining the relevant contributions of tenants is limited to the appropriate amount.

(7) Where an appropriate amount is set by virtue of paragraph (b) of that subsection, the amount of the relevant contribution of the tenant, or each of the tenants, whose relevant contribution would otherwise exceed the amount prescribed by, or determined in accordance with, the regulations is limited to the amount so prescribed or determined”

12. In the event the requirements of section 20 have not been complied with, or there is insufficient time for the consultation process to be implemented, then an application may be made to the First-tier Tribunal pursuant to section 20ZA of the Act.

13. Section 20ZA of the Act provides:

- (1) Where an application is made to a tribunal for a determination to dispense with all or any 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 section (3) an agreement entered into, by or on behalf of the landlord or a superior landlord, for a term of more than twelve months.

14. In **Daejan Investments Ltd v Benson [2013] UKSC 14** it was determined that a Tribunal, when considering whether to grant dispensation, should consider whether the tenants would be prejudiced by any failure to comply with the Consultation Requirements.

15. In **Wynne v Yates and others [2021] UKUT 278 LC** Upper Tribunal Judge Elizabeth Cooke said:

“There must be some prejudice to the tenants beyond the obvious fact of not being able to participate on the consultation process.”

Determination

16. The Tribunal is being asked to exercise its discretion under section 20ZA of the Act. Section 20ZA (1) provides the Tribunal may do so where *“if satisfied that it is reasonable to dispense with the requirements”*.
17. The Tribunal, having considered the submissions made by the Applicant, is satisfied there is good reason to dispense with the consultation requirements. The Applicant has confirmed that it is unable to comply with the consultation process contained within section 20 of the Act because of the time limit imposed by the Fire Service for the installation of the new alarm system. The deadline has been imposed for the safety of the Respondents.
18. The Tribunal noted the Applicant has engaged with the Respondents, explained what steps it is to take and has served a Notice of Intention to Carry Out Works being the preliminary step in the consultation process. No responses to that Notice, nor to the current application, have been received.
19. The Tribunal does not consider the Respondents have suffered prejudice by the lack of compliance with section 20; no representations have been made by the Respondents regarding this.
20. The granting of dispensation does not affect the Respondents’ rights to the challenge the reasonableness or the payability of the service charges under a separate application pursuant to section 27A of the Act.

Rights of appeal

1. 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.

2. If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber), then a written application for permission to appeal must be made to the First-tier Tribunal at the regional office which has been dealing with the case.
3. 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.
4. If the application is not made within the 28 day time limit, such applications 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.
5. 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 rounds of appeal and state the result the party making the application is seeking.
6. If the Tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).