



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

Case References : **LON/00BG/LDC/2019/0038**

Property : **East and West Towers Pan
Peninsula 70 Marsh Wall London
E14 9HA**

Applicant : **Ballymore Millharbour Ltd (1)
Blazecourt Ltd (2)**

:
:

Respondent : **Various leaseholders of East and
West Towers as set out on the
application**

:
:

Type of Application : **S20ZA Landlord and Tenant Act
1985**

Tribunal Members : **Judge F J Silverman Dip Fr LLM
Mr H Geddes**

**Date and venue of
paper determination** : **08 May 2019
10 Alfred Place London WC1E 7LR**

Date of Decision : **08 May 2019**

DECISION

The Tribunal determines that it will exercise its discretion to dispense with the consultation requirements imposed by s.20 of the Landlord and Tenant Act 1985.

REASONS

1. The Applicants who are the Lessor and Intermediate Lessor of the property seek a determination of their application for dispensation from the consultation requirements imposed by s. 20 of the Landlord and Tenant Act 1985.
2. The Application to the Tribunal was made on 27 February 2019.
3. Directions were issued by the Tribunal on 08 March 2019.
4. A paper determination took place in London on 08 May 2019 at which the Tribunal considered the Applicants' application and accompanying documents. No representations or objections had been received from any of the Respondent tenants.
5. The property which is the subject of this application comprises two large blocks of flats. The Directions issued by the Tribunal and sent by the Applicant to all Respondents only required those who objected to the application to respond. No replies were received by the Tribunal.
6. The Tribunal did not inspect the property because to do so would have been disproportionate.
7. The circumstances giving rise to this application are that the Building Management System (BMS) which operates key services within the building including boilers, ventilation, fire alarms and temperature control was due to be replaced in 2018 but became corrupted causing malfunctions in the operation of vital services. The system was set to manual operation in November 2017 but urgent action was required to find a long term solution to the problem. It was therefore decided to replace the system earlier than had been anticipated and a new system has now been installed at a cost of £149,452.66.
8. The urgency of the work prevented the Applicants from carrying out a full consultation under s20 Landlord and Tenant Act 1985 but all leaseholders have been notified and no objections to the works have been received.
9. The Applicants considered that the replacement of the BMS system needed to be carried out as a matter of urgency and the works have now been done. All the tenants were notified of the

situation and of the steps taken by the Applicants to undertake the repairs the cost of which will exceed the s20 limit.

10. A delay in commencing the work caused by engaging in a consultation process as required by s20 Landlord and Tenant Act 1985 would have resulted in a continued inconvenience and health and safety risk to the occupiers.
11. It is common ground that the Applicants have a repairing obligation in respect of the structure, exterior and common parts of the premises imposed on it by the leases.
12. The Applicants sought the Tribunal's consent to dispense with the consultation requirements imposed by s20 Landlord and Tenant Act 1985 in respect of the repair works which have been carried out.
13. In view of the fact that none of the Respondent tenants have objected to the application, that the works were both urgent and necessary and that the proportion of the total cost to be charged to each Respondent is not excessive, the Tribunal is minded to grant its consent to the application.
14. The Tribunal is being asked to exercise its discretion under s.20ZA of the Act. The wording of s.20ZA is significant. Subs. (1) 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* (emphasis added).”

15. The Tribunal understands that the purposes of the consultation requirements is to ensure that leaseholders are given the fullest possible opportunity to make observations about expenditure of money for which they will in part be liable.
16. Having considered the submissions made by the Applicants the Tribunal is satisfied that the works already carried out were sufficiently urgent and necessary to permit them to exercise their discretion in the Applicant's favour.
17. This determination does not affect the tenants' rights to apply to the Tribunal challenging the payability or reasonableness of the service charges.

Judge F J Silverman as Chairman
Date 08 May 2019

Note:
Appeals

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application to the First-tier Tribunal at the Regional office which has been dealing with the case.

2. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.

3. If the person wishing to appeal does not comply with the 28-day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28-day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.

4. The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking.