



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

**Case Reference:** LON/00AA/LDC/2021/0038 P

**HMCTS code:** P: PAPERREMOTE

**Property:** Fenchurch House, 136-138 The  
Minories, London EC3N 1NT

**Applicant:** Rossmoorgate Plc

**Representative :** Town & City Management Limited

**Respondents:** The leaseholders at Fenchurch House

**Type of  
Application:** To dispense with the statutory  
consultation requirements under  
section 20ZA Landlord and Tenant Act  
1985

**Tribunal:** Judge Pittaway

**Date of decision:** 4 May 2021

## DECISION

### **Covid-19 pandemic: description of hearing**

This has been a remote hearing on the papers which has been consented to by the applicant and not objected to by any respondent. The form of remote hearing was P:PAPERREMOTE. A face-to-face hearing was not held because no-one requested a hearing and all issues could be determined on paper.

The documents to which the tribunal was referred are a bundle of 47 pages which included a specimen lease, a quotation from Red100, a quotation from Briggs & Forrester, Notice of Intention and the application.

The tribunal's decision is set out below. References to sections are to sections in the Landlord and Tenant Act 1985 unless otherwise stated.

## DECISION

**The Tribunal grants the application for retrospective dispensation from statutory consultation in respect of the subject works, namely the replacement of the water booster pump set and the water storage tank**

**This decision does not affect the Tribunal's jurisdiction upon any future application to make a determination under section 27A of the Act in respect of liability to pay, for a reason other than non-consultation in respect of the subject works, or as to the reasonableness and/or the cost of the works.**

### **The Application**

1. By an application dated 10 February 2021 the applicant seeks a determination pursuant to section 20ZA of the Landlord and Tenant Act 1985 (the 'Act') for retrospective dispensation from consultation in respect of works to the Property. These are described in the application as the replacement of the water booster pump set and the water storage tank (the '**works**').
2. The Service Charges (Consultation Requirements) Regulations 2003 provide that consultation requirements are triggered if the landlord plans to carry out qualifying works which would result in the contribution of any tenant being more than £250. The application stated that an estimate had been obtained for the works in the sum of £12,650 plus VAT.

3. By directions dated 18 February 2021 (the '**directions**') the tribunal directed that the applicant send each leaseholder/ residential sublessee a copy of the application and directions and display the same in the common parts of the premises, confirming to the tribunal that it had done so. By e mail of 15 April 2021 Ms McGill of Town & City Management Limited confirmed that a copy of the application and directions were sent to the leaseholders on 23 February 2021.
4. The directions provided that if any leaseholder/sublessee objected to the application he/she should do so, to the applicant's managing agents and the tribunal, by 12 March 2021. The tribunal received no objections, and the e mail from Ms McGill of 15 April 2021 stated that no responses or observations had been received.
5. The directions provided that the tribunal would decide the matter on the basis of written submissions unless any party requested a hearing. No such request has been made.

### **The applicant's case**

6. The applicant is the freeholder of the Property. The Property is described in the application as a converted five story building over a restaurant/commercial unit on the ground floor.
7. The Tenth Schedule paragraph 1 of the specimen lease provided, which is of Flat 1, contains a covenant by the landlord to undertake the works set out in the Sixth Schedule, which works include, at Paragraph 1 of Part B keeping the Building in good and substantial repair, replacing all worn or damaged parts. The lease provides, in Part 1 of the Eighth Schedule, for the tenant to pay the specified proportion of the cost to the landlord of performing its service obligations.
8. The applicant says that it seeks dispensation from the full consultation process because the building was without a sufficient water supply. The water booster set has rusted and broken due to a small leak from a water tank in the vicinity.
9. The applicant provided two estimates in the bundle.

The estimate from Red100 dated 9 February 2021 estimates the cost of replacing the existing cold water storage tank, replacing the old cold water booster pump set, with necessary modification to the pipework and wiring, carrying out commissioning, sterilization of tanks, pumps and pipes and removing old equipment from the premises at £16,416 plus VAT.

The estimate from Briggs & Forrester dated 8 February 2021 estimates the provision of two separate cold water tanks each with their own pump, connected together and

operated as a twin pump variable speed booster set with sufficient storage capacity for the development at a cost of £12,650 excluding VAT.

10. A Notice of Intention to carry out work was served on the leaseholders on 15 February 2021.

### **Responses from the respondents**

11. By e mail dated 15 April Ms McGill of Town & City Management Limited confirmed they had not received any objection or observations from the respondents. The tribunal did not receive any objection from any leaseholder.

### **Determination and Reasons**

12. Section 20ZA(1) of the Act 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.”*

13. The tribunal has made its determination on the basis of the application and documents in the bundle, in particular

- that Notice of Intention to carry out the works was served on the respondents,
- that no objection has been received from any respondent, and
- the stated need for the works,

14. The tribunal has also had regard to the decision in *Daejan Investments Ltd v Benson and others* [2013] UKSC 14 (*‘Daejan’*),

15. The tribunal determines that the respondents are not prejudiced by the works and it is reasonable to dispense with the consultation requirements.

16. Whether or not the respondents are liable for the cost of the works by reason of the terms of their leases, any statutory provision other than section 20ZA, and whether the works are carried out to a reasonable standard and at a reasonable cost are not matters which fall within the jurisdiction of the tribunal in relation to this present application. This decision does not affect the tribunal’s jurisdiction upon any future application to make a determination under section 27A of the Act in respect of liability to pay and the reasonableness and /or cost of the works.

Name:

Judge Pittaway

Date: 4 May 2021

### **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 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.
4. 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.