



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

Case Reference: LON/00AY/LDC/2021/0047 P

HMCTS code: P: PAPERREMOTE

Property: The Library Building, 2a St Luke's
Avenue, Clapham, London SW4 7EA

Applicant: Clapham One Ground Rents Limited
(freeholder)

Representative : Rendall and Rittner

Respondent: The leaseholders of The Library Building
(listed in a schedule to the application)

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

Tribunal: Judge Pittaway

Date of decision: 20 April 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 in an electronic bundles of 29 pages (including the application, the Directions issued by the tribunal dated 23 February 2021, Notice of Intention and cover letter, Notice of Estimates and cover letter and responses from the leaseholders) and a copy of the underlease of Flat 88 (34 pages).

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 dispensation from statutory consultation in respect of the subject works, namely work to the fire doors at the Property required to satisfy the Fire Door Audit, Fire Risk Assessment and the works recommended to provide an EWS 1 certificate for the property.

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, and the reasonableness and/or the cost of the subject works.

The Application

1. The Applicant seeks a determination pursuant to section 20ZA of the Landlord and Tenant Act 1985 (the '**Act**') for dispensation from consultation in respect of works to the Property. These are described in the application as work to the fire doors at the Property required to satisfy the Fire Door Audit, Fire Risk Assessment and recommended works to provide an EWS 1 certificate for the Property (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 did not state what each leaseholder's contribution to the cost of the works would be, but indicated that it would be in excess of £250 per apartment.

3. By directions dated 23 February 2021 (the '**directions**') the tribunal directed that the applicant by 3 March 2021 send each leaseholder and any residential sublessees the application and the directions, and confirm to the tribunal that this had been done. The applicant confirmed that it had done so in accordance with the directions.
4. The directions provided that if any respondent objected to the application he/she should do so, to the applicant and the tribunal, by 19 March 2021. The tribunal received no objections, and no objections are included in the bundle provided to the tribunal by the applicant.
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 which is described in the application as a development of 136 residential apartments of 1,2 and 3 bedroom properties, with a reception on the ground floor. There is a lower ground floor car park providing parking for 42 vehicles and a separate motorcycle parking area with an enclosed bike store.
7. The works have not yet been started. The applicant seeks dispensation from the full consultation process in respect of the works to avoid lengthy delays before the works can begin. The application states that there are various tenants who require the EWS1 certificate in connection with prospective sales or re-mortgages of their flats at the Property.
8. A Notice of Intention was served on the leaseholders under a covering letter dated 3 February 2021 inviting observations to be sent to Cathedral (Clapham) Limited by 7 March 2021. By a letter dated 26 February 2021 to the leaseholders the freeholder proposed to reduce the consultation period between the Notice of Intention and Notice of Estimates to 14 days. By a second letter dated 26 February 2021 the freeholder stated that Cathedral (Clapham) Limited had received no written observations from any leaseholder. This letter set out the estimates that the applicant had received as follows;

EAS Interiors Ltd	£60,666.69
SureClose Group Ltd	£64,865.58
Jewel Group Ltd	£69,132.50

The application stated that it was the applicant's policy to accept the lowest estimate. Adding a 2% consultation fee for Rendall and Rittner and VAT to the lowest estimate from EAS Interiors Ltd this made the total anticipated cost of the works £74,256.02.

The letter invited observations on the proposals within 14 days, by 19 March 2021. It stated that the intention was to recover the cost of the works from the tenants.

Responses from the respondents

9. The applicant's bundle provided to the tribunal contained two responses from leaseholders.
10. By an email dated 14 March 2021 Ms Gare of Apartment 114 confirmed that she and her co-owner, Mr Christie did not object to the works but enquired what steps the freeholder would be taking to recover the costs from the original contractors.
11. By email dated 8 March 2021 Mr Tsao, on behalf of the owner of Apartment 86 Messidor Inc, requested a copy of the work specification and tender, followed by an email dated 9 March enquiring whether any work was required to the front doors of the apartments. By email dated 9 March Rendall and Rittner confirmed the work did not include apartment front doors.

Determination and Reasons

12. Having considered the application and the documents provided, the tribunal determines as follows.
13. 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.”
14. The tribunal determines, having regard to the decision in *Daejan Investments Ltd v Benson and others* [2013] UKSC 14 (*‘Daejan’*), the consultation which the applicant has undertaken with the respondents, the only responses received from any respondent and the stated need for the works, that the respondents are not prejudiced by the works and it is reasonable to dispense with the consultation requirements.

15. The specimen lease of Apartment 88 provided in the bundle is an underlease. It does not contain the freeholder's obligations in relation to the fire doors, and the tenant's service charge contribution obligations are by reference to three schedules in a Superior Lease of the residential accommodation at the property dated 30 March 2012 made between the Mayor and Burgesses of the London Borough of Lambeth (1) and Cathedral (Clapham) Limited (the '**Superior Lease**'). The Superior Lease was not included in the bundle before the tribunal.
16. The purpose of section 20ZA is to permit a landlord to dispense with the consultation requirements of section 20 of the Act if the tribunal is satisfied that it is reasonable for them to be dispensed with. Whether or not the respondents are liable for the cost of the works by reason of the provisions of their leases when read in conjunction with the Superior Lease or by reason of 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.
17. The applicant is reminded that, as stated in the Directions, it is the responsibility of the applicant to serve a copy of this decision on all respondents.

Name: Judge Pittaway Date: 20 April 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.