



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

Case Reference: LON/00AU/LDC/2020/0156 P

HMCTS code: P: PAPERREMOTE

Property: VizioN7, 6-10 Hornsey Street London N7
8EL

Applicant: Stadium Investments Ltd

Representative : JAR Management London Limited

Respondents: The lessees named in the schedule
provided to the tribunal.

Representative: None specified

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

**Tribunal
members:** Judge Pittaway
Mr K Ridgeway MRICS

Date of decision: 7 June 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 474 pages (many of which pages were blank and did not correspond to the index at the front of the bundle) which included the application, the Directions issued by the tribunal dated 10 March 2021, and two letters from Mr Norman Wilson dated 6 June 2020 and 21 April 2021. The bundle did not include a copy of the reply that the tribunal had received from Mr M Bharadia dated 7 April 2021 (which it should have done). The tribunal have had regard to that reply as well in reaching its decision.

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 the installation of heat detection alarms in three of the blocks at the property, namely Garand Court, Buckler Court and Carronade Court.

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 retrospective dispensation from consultation in respect of works to the Property. These are described in the application as the installation of heat detectors in all flats with cladding on external facing (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 the cost per tenant of the works but by reason of the application the Tribunal assumed that each respondent's share of the cost of the works is in excess of £250.
3. By directions dated 10 March 2021 (the '**directions**') the tribunal directed that

- The applicant should by 17 March 2021 clarify whether it was the correct applicant given that the specimen leases provided refer to a 'Manager' as a party, as the provider of the services and receiver of the service charge.

Cassandra Ford of J R Residential Limited responded on 24 March stating that JAR Management London Limited were the managing agents appointed by the freeholder.

- The applicant should send each leaseholder a copy of the application and directions and confirm to the Tribunal by 29 March that it had done so.

This was confirmed by Cassandra Ford of J A Residential Limited on 24 March 2021.

- Any leaseholder who objected to the application should do so to both the applicant and the tribunal by 7 April 2021, with the applicant having the right to make a brief reply by 21 April 2021.

The tribunal received two replies, from Mr N Wilson of Flat 10 Carmel Court on 6 April and from Mr M Baradia of 16 Mount Carmel Court on 7 April 2021.

The applicant made no reply.

- The applicant prepare a bundle of all relevant documents for the tribunal by 4 May 2021.
4. 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

5. The applicant is stated in the application to be the freeholder of the property. In response to the direction for clarification as to whether the applicant was correctly

identified in the application (by reason of a 'Manager' also being a party to the specimen leases provided) the tribunal received an e mail from Cassandra Ford, the acting property manager for the property. In it she did not address the issue of the Manager as a party to the lease but stated that JAR Management Limited was the appointed managing agent of the freeholder and attached a copy of the management agreement evidencing this. Her reply did not clarify the current status of the "Manager" referred to in the leases, as had been directed. The tribunal have assumed from her reply that the original manager does not remain involved with the property.

6. The property is described in the application as a mixed use development of 50 commercial units and 528 residential flats in five blocks, Buckler Court, Carronade Court, Garrand Court, Mount Carmel Court and Culverin Court. The application states that the first three named blocks have combustible cladding.
7. The application states that consultation has begun for the removal and replacement of the combustible cladding, however to reduce the costs and the ongoing need for Waking Watch (which was costing in excess of £10,000 per week) the applicant has placed heat detection alarms in the flats in the blocks with the combustible cladding.
8. The bundle before the tribunal contained three quotes for the installation of the heat detection alarms. Consulting Compliance Services Limited quoted £161,034.39 plus VAT. Black Sheep Fire & Electrical quoted £219,700 plus VAT. Vitech Services Limited quoted £104,283.77 inclusive of VAT. The applicant proceeded with Vitech who subsequently charged a further £20,000 plus VAT for additional resource to boost the signal for the detectors.

The respondents' replies

9. The two replies received by the tribunal did not object to the installation of the heat detection alarms but rather queried whether how the cost would be apportioned between the five blocks, given that the two respondents who reply have flats in Mount Carmel Court which does not have combustible cladding.

Determination and Reasons

10. Having reviewed the application and the submissions of the two respondents and considered all of the documents provided, the tribunal has made the following determination.

11. 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.”

12. 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. Such an application may be made retrospectively, as it has been made here. In an application for dispensation the tribunal does not consider liability to pay for the works, nor whether the works have been carried out to a reasonable standard and at a reasonable cost. These would be matters for a separate application under s27A.
13. The tribunal determines, having regard to the decision in *Daejan Investments Ltd v Benson and others* [2013] UKSC 14 (*‘Daejan’*) and the stated need for the works, in particular to reduce the cost of Waking Watch which was not challenged by the respondents, that the respondents were not prejudiced by the works and it is reasonable to dispense with the consultation requirements.
14. Any issue of the apportionment of the cost of the works is not before the tribunal in this application.
15. Whether any respondent is not liable for the cost of the works by reason of the terms of their leases, and whether the works have been 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 the reasonableness and /or cost of the works.

Name: Judge Pittaway Date: 7 June 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.