



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

**Case reference** : **LON/00BG/LDC/2021/0065P**

**Property** : **69 Johnson Street, London E1 0AQ**

**Applicant** : **Sunettee Zone**

**Representative** : **Ringley Law LLP**

**Respondents** : **The leaseholders of the Property as listed in the application**

**Type of application** : **Dispensation from compliance with statutory consultation requirements**

**Tribunal member** : **Judge P Korn**

**Date of decision** : **4<sup>th</sup> May 2021**

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**DECISION**

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**Description of hearing**

This has been a remote hearing on the papers. The form of remote hearing was **P**. An oral hearing was not held because the Applicant confirmed that it would be content with a paper determination, the Respondents did not object and the tribunal agrees that it is appropriate to determine the issues on the papers alone. The documents to which I have been referred are in an electronic bundle, the contents of which I have noted. The decision made is described immediately below under the heading “Decision of the tribunal”.

## **Decision of the tribunal**

The tribunal dispenses unconditionally with those of the consultation requirements not complied with by the Applicant in respect of the qualifying works which are the subject of this application.

## **The application**

1. The Applicant seeks dispensation under section 20ZA of the Landlord and Tenant Act 1985 (“**the 1985 Act**”) from the consultation requirements imposed on the landlord by section 20 of the 1985 Act in relation to certain qualifying works.
2. The qualifying works which are the subject of this application comprise works to balcony doors and associated works relating to leaks in the flats below. As at the date of the application the works had not been started.
3. The Property is a purpose-built block of 13 flats.

## **Applicant’s case**

4. Following instructions from the Applicant, Ringley Limited (Surveyors) visited the Property on 8<sup>th</sup> October 2020. They noted considerable damage to the ceiling of the front reception room and kitchen of Flat 9 as well as staining to the side of the ceiling in the rear bedroom. There was also damage to two ceilings in Flat 11. In Flat 12 they discovered UPVC doors and frames of poor quality; the doors did not close properly and rainwater was running down the face of the inward opening doors onto the sills and leaking into Flat 11 below. Similarly, there were problems with doors in Flat 13 which caused water to leak onto the sills and into Flat 9 below.
5. As a result of their inspection, Ringleys recommended the replacement of the whole front window and door frame sets in Flats 12 and 13 with good quality aluminium sliding doors with waterproof sills.
6. At the same time as making its application for dispensation, the Applicant served on each of the Respondents a Stage 1 Notice of Intention. None of the Respondents is stated to have made any observations.
7. The Applicant seeks dispensation from compliance with the remainder of the statutory consultation requirements as the works are considered to be urgent. The problem with the doors is letting water into the building, thereby causing damage to flats and posing a health and safety risk to all residents.

## **Responses from the Respondents**

8. There have been no objections from any of the Respondents to the application.

## **The relevant legal provisions**

9. Under Section 20(1) of the 1985 Act, in relation to any qualifying works *“the relevant contributions of tenants are limited ... unless the consultation requirements have been either (a) complied with ... or (b) dispensed with ... by ... the appropriate tribunal”*.
10. Under Section 20ZA(1) of the 1985 Act *“where an application is made to the appropriate tribunal for a determination to dispense with all or any of the consultation requirements in relation to any qualifying works..., the tribunal may make the determination if satisfied that it is reasonable to dispense with the requirements”*.

## **Tribunal’s analysis**

11. It is unclear why the Applicant waited several months before serving the Stage 1 consultation notice. If the Applicant had begun the consultation process more promptly it would seem that the whole consultation process could have been completed by now. Nevertheless, there was partial compliance with the regulations in that the Applicant sent out a Notice of Intention to leaseholders.
12. As is clear from the decision of the Supreme Court in *Daejan Investments Limited v Benson and others (2013) UKSC 14*, the key consideration when considering an application for dispensation is whether the leaseholders have suffered any real prejudice as a result of the failure to comply with the consultation requirements.
13. In this case, there is some evidence to indicate that the works are urgent. As noted above, it is unclear why the Applicant did not respond to the apparent urgency of the situation by starting the consultation process earlier, but the Applicant’s submissions on this point have not been contradicted by any of the Respondents. In addition, it seems that the Respondents did not respond to the Notice of Intention, which arguably shows that they were either supportive of the Applicant’s approach or not engaged with the process. Also, and importantly, whilst the Applicant has not fully complied with the statutory consultation requirements, none of the leaseholders has objected to the application.
14. Furthermore, none of the Respondents has suggested that there has been any prejudice to leaseholders as a result of the failure to comply with the statutory consultation requirements.

15. The tribunal has a wide discretion as to whether it is reasonable to dispense with the consultation requirements, and on the facts of this case in the light of the points noted above I consider that it is reasonable to dispense with them.
16. As is clear from the decision of the Supreme Court in *Daejan v Benson*, even where minded to grant dispensation it is open to a tribunal to do so subject to conditions, for example where it would be appropriate to impose a condition in order to compensate for any prejudice suffered by leaseholders. However, as noted above, there is no evidence nor any suggestion that the leaseholders have suffered prejudice in this case.
17. Accordingly, I grant unconditional dispensation from compliance with those of the consultation requirements not complied with by the Applicant.
18. For the avoidance of doubt, this determination is confined to the issue of consultation and does not constitute a decision on the reasonableness of the cost of the works.

### **Costs**

19. There have been no cost applications.

**Name:** Judge P Korn

**Date:** 4<sup>th</sup> May 2021

### **RIGHTS OF APPEAL**

- A. If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber) a written application for permission must be made to the First-tier Tribunal at the regional office dealing with the case.
- B. 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.
- C. If the application is not made within the 28 day time limit, such application must include a request for extension of time and the reason for not complying with the 28 day time limit; the Tribunal will then look at such reason and decide whether to allow the application for permission to appeal to proceed despite not being within the time limit.
- D. 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.