



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

**Case reference** : **LON/00AG/LDC/2021/0066**

**HMCTS code (paper, video, audio)** : **P: PAPERREMOTE**

**Property** : **158 Prince of Wales Road, London NW5 3PS**

**Applicant** : **Sammut Limited**

**Representative** : **Rob Cox of Eight Asset Management**

**Respondents** : **The tenants of 158 Prince of Wales Road as named on the application**

**Representative** : **None**

**Type of Application** : **Dispensation with statutory consultation requirements under s.20ZA Landlord & Tenant Act 1985**

**Tribunal member(s)** : **Judge N Rushton QC  
Mr P Roberts DipArch RIBA**

**Venue** : **10 Alfred Place, London WC1E 7LR**

**Date of hearing** : **10 May 2021**

**Date of decision** : **10 May 2021**

---

**DECISION**

---

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

This has been a remote hearing on the papers which has been consented to or not objected to by the parties. The form of remote hearing was P: PAPERREMOTE. A face-to-face hearing was not held because it was not

practicable; no-one requested the same and all issues could be determined on paper. The documents to which the tribunal were referred were in a bundle of 100 pages, the contents of which have been considered by the tribunal.

### **Decision of the tribunal**

- (1) Dispensation is granted pursuant to section 20ZA of the Landlord & Tenant Act 1985.

### **The application**

1. The Applicant is the landlord, Sammut Limited, in respect of flats 1 - 10 at 158 Prince of Wales Road, London NW5 3PS (“**the Property**”), acting through its managing agent Rob Cox of Eight Asset Management of 2nd floor, 96-98 Baker Street, London W1U 6TJ. All of the flats are held under long leases. The Respondents are all the leaseholders, as named at page 53 of the bundle before the Tribunal.
2. The Applicant seeks dispensation pursuant to Section 20ZA of the Landlord & Tenant Act 1985 (“the Act”) in respect of consultation requirements in relation to certain “**Qualifying Works**” (within the meaning of the Act).
3. The Qualifying Works comprise the installation of a fire alarm system in the main communal area, with functions within individual flats, required in partial compliance with an enforcement notice issued by London Fire Brigade dated 9 October 2020 (“**the Enforcement Notice**”). The work is said to be urgent because the building has cladding which following Grenfell needs to be replaced, and there is a risk to the safety of the residents from fire caused by combustible cladding. It appears the fire alarm installation has now been carried out, as it was planned for three days from 10 March 2021.
4. The only issue is whether it is reasonable to dispense with the statutory consultation requirements.

### **Paper determination**

5. The Application is dated 28 January 2021. Directions were issued by Judge Silverman on 22 March 2021.
6. Those directions among other things required the Applicant to send each of the leaseholders copies of the application form and the directions and to display a copy of the same in a prominent place in the common parts of the Property by 31 March 2021. Due to a delay in the Directions being received by the Applicant, the email to leaseholders with the necessary documents was not sent until 14 April 2021, with

display in the common parts on the same day. This was confirmed by Mr Cox in an email of 14 April 2021, which included a copy of the email to the leaseholders. In his email to the leaseholders (following procedural guidance from Judge Nicol), Mr Cox proposed an extension to the date for responses by the leaseholders to 30 April 2021. The Tribunal is therefore satisfied that such notice has been provided.

7. No responses and no objections have been submitted by the Respondents, who have taken no active part in this application.
8. The directions provided that the Tribunal would determine the application on the basis of written representations unless any request for an oral hearing was received by 26 April 2021. No such request has been received. This application has therefore been determined by the Tribunal on the papers supplied by the Applicant. This included a bundle containing the application, directions, copy lease, Enforcement Notice and estimates, received by the Tribunal.
9. The directions state expressly that the Application only concerns whether it is reasonable to dispense with the statutory consultation requirements and does not concern the issue of whether any service charge costs resulting from the works are reasonable or payable.

### **The law**

10. Section 20ZA of the Act, subsection (1) provides as follows:

*'Where an application is made to a 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.'*

11. The Supreme Court in the case of *Daejan Investments v Benson and others* [2013] UKSC 14 set out certain principles relevant to section 20ZA. Lord Neuberger, having clarified that the purpose of sections 19 to 20ZA of the Act was to ensure that tenants are protected from paying for inappropriate works and paying more than would be appropriate, went on to state *'it seems to me that the issue on which the [tribunal] should focus when entertaining an application by a landlord under section 20ZA(1) must be the extent, if any, to which the tenants were prejudiced in either respect by the failure of the landlord to comply with the requirements'*.

### **Findings of fact**

12. The Application gives the following reasons for seeking dispensation: on 9 October 2020, the landlord was served with the Enforcement

Notice, which required it to take a number of remedial steps for fire safety by 26 March 2021. The second of these was to “*Provide an appropriate means of fire detection and giving warning in the common parts of the premises. This can be achieved by installing a grade D category LD2 system in accordance with BS5839 Part 6.*”

13. On 14 October 2020 the landlord wrote to all the leaseholders and advised them that an external wall survey had identified a number of fire risks in the elevations and balconies and that remediation works would be required. The risks were sufficiently serious that interim measures were required, in particular installation of a fire alarm system. The letter included a section 20 notice in relation to the interim works of installing a compliant fire alarm system.
14. On 17 November 2020 the landlord obtained a quote from EMS for installation of the alarm system of £13,951.68. It appears this was subsequently updated because on 3 March 2021 the managing agent served notice on the leaseholders of two quotes: £16,202.01 + VAT from EMS and £15,950 + VAT from Future Systems. There is a copy of the latter quote dated 3 March 2021 in the bundle.
15. The notice of 3 March 2021 invited written observations from the leaseholders by 6 April 2021. It stated that they had not received any written observations from the leaseholders within the earlier consultation period (i.e. under the s.20 notice). There is no evidence in the bundle that any observations were received from any of the leaseholders, then or subsequently.
16. The Tribunal understands from the papers that the work was carried out in March 2021, although this has not been confirmed.
17. The Tribunal is satisfied on the basis of the statements in the Application and the documents in the bundle, and in the absence of any representations from the leaseholders, that the Qualifying Works were necessary and urgent in nature, having regard to the risk to health if they were not urgently carried out and.
18. In the absence of any submission from any Respondent objecting to the works, the Tribunal found no evidence that the Respondents would suffer prejudice if dispensation were to be granted.

### **Determination**

19. In the circumstances set out above, the Tribunal considers it reasonable to dispense with consultation requirements. Dispensation is granted pursuant to section 20ZA of the Landlord & Tenant Act 1985.

20. This decision does not affect the Tribunal's jurisdiction upon any future application to make a determination under section 27A of the Act as to the reasonableness and standard of the work and/or whether any service charge costs are reasonable and payable.

**Name: Judge N Rushton QC**

**Date: 10 May 2021**

### **Rights of appeal**

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the tribunal is required to notify the parties about any right of appeal they may have.

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.

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.

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.

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.

If the tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).