



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

Case Reference : **LON/00AM/LDC/2022/0099
P:REMOTE**

Property : **Lutheran Mews 57-59 Dalston Lane
London E8 2NG**

Applicant : **1991 Smith Family Trust**

Representative : **Hawk Block Management Ltd**

Respondents : **The leaseholders as named on the
Application**

Representative : **Not represented**

Type of Application : **S20ZA Landlord and Tenant Act
1985**

Tribunal Members : **Judge F J Silverman MA LLM
Mrs S Redmond MRICS**

**Date of paper
consideration** : **26 October 2022
10 Alfred Place, London WC1E 7LR**

Date of Decision : **26 October 2022**

DECISION

The Tribunal determines that it will exercise its discretion to dispense with the consultation requirements imposed by s.20 of the Landlord and Tenant Act 1985 on the grounds that all tenants were notified of the application under s20ZA and no objections were received. The dispensation applies only to the cost of the waking watch estimated by the Applicant to total £9,828.

REASONS

1. The Applicant seeks a determination of its application for dispensation from the consultation requirements imposed by s. 20 of the Landlord and Tenant Act 1985.
2. The Application to the Tribunal was made on 25 April 2022.
3. Directions were issued by the Tribunal on 28 July 2022.
4. This matter was determined by a paper consideration on 26 October 2022 at which the Tribunal considered the Applicant's application and accompanying documents.
5. A copy of the Application and Directions issued by the Tribunal had been sent by the Applicant to all Respondents asking them to respond and to indicate whether or not they opposed the application. No objections were received by the Tribunal.
6. The property comprises 26 self-contained flats in two adjacent blocks.
7. Estimates had been obtained by the Applicant in relation to the improvement of fire-resistant measures at the property. This included the removal and replacement of combustible materials in the balconies of some flats.
8. Shortly before the works commenced the London Fire Brigade insisted that during the period when works were being carried out to remove combustible materials the tenants should be protected by a waking watch on the buildings.

9. The Applicant needed to comply with this requirement as a matter of urgency and obtained an estimate for £9,828 as the cost of engaging a waking watch for three weeks during which this element of the work would be carried out.
10. The Applicant accepted this estimate and the relevant works were completed in a three week period during which the waking watch was on duty 24 hours each day.
11. The cost of the waking watch is a service charge item and as such its cost, amounting to £756 per flat (if divided equally) would be subject to s20 procedures.
12. The Respondents had each been supplied with a notice under s20 Landlord and Tenant Act 1985 in relation to all of the works but the Applicant felt it was necessary to commence the works before the consultation period ended.
13. Owing to the urgency of the situation and the mandatory requirement imposed by the London Fire Brigade the Applicant went ahead with the works and now asks for retrospective dispensation from the s20 procedures in relation to this element of the remediation works.
14. The Tribunal was not asked to inspect the property and in the context of the issues before it did not consider that an inspection of the property would be either necessary or proportionate.
15. The Applicant, as freeholder, has a repairing obligation in respect of the structure, exterior and common parts of the premises (including mains services).
16. The Tribunal is being asked to exercise its discretion under s.20ZA of the Act. The wording of s.20ZA is significant. Subs. (1) 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*” (emphasis added).

17. The Tribunal understands that the purposes of the consultation requirements is to ensure that leaseholders are given the fullest possible opportunity to make observations about the expenditure of money for which they will in part be liable.
18. Having considered the submissions made by the Applicant the Tribunal is satisfied that the proposed works were both urgent and necessary and that no undue prejudice has or will be caused to or suffered by any tenant by the grant of dispensation under s20ZA.
19. This determination does not affect the tenants’ rights to apply to the Tribunal challenging the payability or reasonableness of the service charges.

Judge F J Silverman as Chairman
Date 26 October 2022

Note:

Appeals (See next page)

RIGHTS OF APPEAL

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application by email to rplondon@justice.gov.uk.
2. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.
3. If the person wishing to appeal does not comply with the 28 day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28 day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.
4. The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking.