



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

Case Reference	:	CAM/00KC/LDC/2019/0011
Property	:	48-54, 56-60 and 64-75 Watling Gardens, Dunstable LU6 3FD
Applicant	:	Eleanorfields Management Company Limited
Respondents	:	24 sublessees of Heylo Housing Limited
Type of Application	:	For dispensation of the consultation requirements under section 20ZA
Tribunal Member	:	Judge Wayte
Date of Decision	:	2 July 2019

DECISION

The Tribunal determines that an order for dispensation under section 20ZA of the 1985 Act shall be made dispensing with the consultation requirements in respect of the sublessees of Heylo Housing Limited in relation to the qualifying works carried out in September and October 2018.

The application

1. The Applicant seeks an order pursuant to s.20ZA of the Landlord and Tenant Act 1985 (as amended) (“the 1985 Act”) for the retrospective dispensation of consultation requirements in respect of qualifying works carried out between September and November 2018. The Respondents are the leaseholders of 24 units where the headlease is held by Heylo Housing Limited. The final costs for the works are said to be £71,980 plus VAT, with the contribution from the 24 units affected by this application being £17,083.
2. The issue in this case is whether the consultation requirements of section 20 of the 1985 Act should be dispensed with.
3. The grounds given in the application state that consultation was carried out with Heylo Housing Limited but not their sublessees. The Applicant accepts that following the Upper Tribunal decision in *Leaseholders of Foundling Court v LB Camden & Ors* [2016] UKUT 0366 (LC), the statutory obligation required them to consult both Heylo and their lessees but it was unaware of the decision at the time the original consultation exercise was carried out. They submit there has been no prejudice to the sublessees and in the circumstances it is reasonable to dispense with that requirement.

The background

4. The application was received on 15 May 2019. Directions were made on 20 May 2019 which provided for the Applicant to serve a copy of the application and directions on the Respondents and for those Respondents to then indicate whether they opposed the application. The Applicant confirmed by a letter dated 30 May 2019 that it had served the Respondents by first class post that day. None of the leaseholders have replied to the tribunal raising an objection to the application and the Applicant also confirmed in their statement dated 24 June 2019 that none had raised an objection with them directly.
5. The directions provided that this matter would be considered by way of a paper determination unless a hearing was requested. A hearing was not requested and accordingly the application was considered on the papers on 2 July 2019.
6. The Tribunal did not consider that an inspection was necessary, nor would it have been proportionate to the issues in dispute.
7. The only issue before the Tribunal is whether it should grant dispensation from all or any of the consultation requirements contained in section 20 of the 1985 Act in respect of the sublessees of Heylo Housing.

The Tribunal's decision

12. The Tribunal determines that an order for dispensation under section 20ZA of the 1985 Act shall be made dispensing with the consultation requirements in respect of the sublessees of Heylo Housing Limited in relation to the works outlined above.

Reasons for the Tribunal's decision

13. The tribunal has the jurisdiction to grant dispensation under section 20ZA of the 1985 Act "*if satisfied that it is reasonable to dispense with the requirements*". The tribunal has also had regard to the leading case of *Daejan Investments Ltd v Benson* (2013) UKSC 14, which confirmed that when considering an application under section 20ZA, the tribunal should focus on the extent, if any, to which the tenants were prejudiced by the failure to comply with the consultation requirements.
14. The application was not opposed by any of the sublessees, who have had plenty of time since the works were completed in 2018 to raise objections or present any arguments that they had suffered prejudice as a result of the Applicant's omission to consult them. As stated in the directions, this application does not concern the issue of whether any service charge costs will be reasonable or payable. In the circumstances, the tribunal is satisfied that it is appropriate to grant an order for dispensation.

Name: Judge Wayte

Date: 2 July 2019

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).