



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

Case reference	:	CAM/33UG/LDC/2021/0018 P:Paperremote
Property	:	16 – 51 Duke’s Palace Wharf Duke Street Norwich NR2 4SF
Applicant	:	Duke’s Palace Wharf (Norwich) Management Company Limited
Respondent leaseholders	:	The Leaseholders Duke’s Palace Wharf
Type of application	:	To dispense with the consultation requirements under S.20 Landlord and Tenant Act 1985
Tribunal member(s)	:	Mrs E Flint FRICS
Date and venue of determination	:	Remote on the papers

DECISION

This has been a remote hearing on the papers which has been consented to by the Applicant and not objected to by the Respondent. A face to face hearing was not held because it was not practicable, no-one requested the same, and all the issues could be determined on the papers.

Decision of the tribunal

- (1) The Tribunal grants dispensation from all of the consultation requirements under S.20 of the Landlord and Tenant Act 1985 in relation to the implementation of a walking watch and fire alarm system.

- (2) The question of reasonableness of the works or cost was not included in this application, the sole purpose of which is to seek dispensation.

The Background

1. The application under section 20ZA of the Landlord and Tenant Act 1985 (“the Act”) was made by the applicants on 14th May 2021.
2. The application concerned the implementation of a 24/7 Waking Watch at the development as an emergency measure to be followed by the installation of a fire alarm system to alleviate the financial burdens of the Waking Watch.
3. Directions were issued on 17 May 2021 requiring the applicant to prepare bundles by 11 June 2021 to include statements
 - (i) Setting out the full grounds for the application, including all of the documents on which the landlord relies and copies of any replies from the tenants;
 - (ii) The Leaseholders were asked to confirm by 11 June 2021 whether or not they would give their consent to the application.
 - (iii) In the event that such agreement was not forthcoming the leaseholders were to state why they opposed the application; and provide copies of all documents to be relied upon.
4. No objections to the application have been received.
5. The Leaseholders were informed in the Directions issued by the Tribunal that the question of reasonableness of the works or cost was not included in this application, the sole purpose of which is to seek dispensation.

The Evidence

6. Duke’s Palace Wharf is a purpose built block of 36 flats constructed on the south side of the river way in central Norwich a little approximately 15 years ago.
7. An External Wall Survey and Fire Engineering report was commissioned in which it was stated that “Considering the significant fire risk present it is considered that interim measures are required to ensure that in the event of fire the occupants are given an early warning so that they can make their escape prior to the rapid spread of fire.

Therefore, a temporary fire detection system is proposed within the building. This would provide early warning to a fire that would alert the occupants at an early stage in the fire growth and prior to the combustible components contributing to the rapid fire spread. Because of the significant risk posed to life safety it is considered that a waking watch is provided up until such time that the temporary fire detection system is installed.”

8. The waking watch was implemented immediately. It was estimated that the fire alarm system could be installed within 3-4 weeks.
9. No consultation has been carried out in respect of the Waking Watch. However, Stages 1 and 2 of the section 20 consultation requirements has been carried out in relation to the fire alarm system.

The Decision

10. The relevant test to be applied in an application for dispensation was set out by the Supreme Court in *Daejan Investments Ltd v Benson & Ors* [2013] UKSC 14 where it was held that the purpose of the section 20 consultation procedure was to protect tenants from paying for inappropriate works or paying an inappropriate amount. Dispensation should not result in prejudice to the tenant.
11. The Tribunal determines from the evidence before it that the immediate implementation of a 24/7 waking watch was necessary, is time limited as it is to be replaced by a fire alarm system which will alleviate the costs of the waking watch. The waking watch was required urgently; no prejudice to the lessees has been demonstrated or asserted.
12. On the evidence before it, and in these circumstances, the Tribunal considers that the application for dispensation be granted.

Name: Evelyn Flint

Date: 25 June 2021

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.