



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

Case Reference : **LON/00AJ/LDC/2022/0164**

Property : **Arc Tower, 32 Uxbridge Rd, London W5
2SN**

HMCTS code : **P: PAPERREMOTE**

Applicant : **Adriatic Land 5 Ltd**

Representative : **Residential Management Group**

Respondents : **Leaseholders of Arc Tower, see
attached schedule**

Representative : **None**

Type of Application : **Dispensation from consultation
requirements under section 20ZA
Landlord and Tenant Act 1985 (“the
Act”)**

Tribunal Member : **Mr Charles Norman FRICS
Valuer Chairman**

Date of Decision : **12 December 2022**

Determination by Written Representations

DECISION

Covid-19 pandemic: description of determination

This has been a remote determination on the papers which has been not objected to by the parties. The form of remote determination was by paper P: PAPERREMOTE. A face-to-face hearing was not held because it was not practicable, and no-one requested the same. The documents which the tribunal considered were in electronic form totalling 141 pages.

Decision

1. The application for dispensation is **GRANTED** unconditionally.

Reasons

Background

2. Application to the Tribunal was made on 25 August 2022 for a dispensation from the consultation requirements under section 20ZA of the Landlord and Tenant Act 1985 (“the Act”) (set out in the appendix). The subject matter is repair to a rainwater gutter, including cleaning out the existing gutter, preparing for new PMMA waterproofing system and cutting and replacing existing outlets. The works have been completed.
3. Directions were issued on 5 October 2022 amended 18 November 2022 directing that the matter be dealt with by written representations unless any party made a request for an oral hearing, which none did. The directions required the applicant to give publicity to the application and serve copies on the lessees. The Applicant confirmed this. In addition, the respondents were invited to respond to the application, which none have. The Tribunal did not consider it necessary or proportionate inspect the property.

The Property

4. The property is a mixed use building of 21 storeys of steel and concrete construction with glass panel cladding. Roofs are pitched steel profile structure. The building was constructed in 2014 and includes 93 flats, two commercial units and other areas. The roofs are divided into North and South sections.

The Respondents’ leases

5. A sample lease was supplied, but the Tribunal makes no finding as to payability or reasonableness of the costs to be incurred in this application.

The Applicant’s Case and Nature of the Works

6. In March 2021 scaffolding was erected to enable cladding works to be undertaken, financed by the Building Safety Fund. In October 2021, the

applicant became aware of leaks in Flat 134 which is served by the North roof. There was significant water ingress into that flat. In January 2022, the Applicant appointed Leak Detection Specialists Ltd, who advised that the source of leaks was defects to the outlet faceplates connecting to a gutter. Subsequently it was found that the south roof suffered from a similar defect. If the proposed works can be carried out quickly using the existing scaffolding, there will be a substantial reduction in overall cost. The scaffolding cost is approximately £29,430 per week. This cost will not be charged to leaseholders.

7. The Applicant sent a Notice of Intention to leaseholders on 31 May 2022. It also obtained quotes from two contractors. The Applicant appointed Multi Roofing Systems (MRS) and accepted the lower of their two cost options at a budget cost of £37,640. The work was carried out during September 2022. MRS also identified that a further rainwater pipe was needed from the gutter into balcony rainwater pipework below. The additional cost was £1575. This work was completed on 11 November 2022.

The Respondents' Case

8. The respondents did not respond to the application.

The Law

9. Section 20ZA is set out in the appendix to this decision. The Tribunal has discretion to grant dispensation when it considers it reasonable to do so. In addition, the Supreme Court Judgment in *Daejan Investments Limited v Benson and Others* [2013] UKSC 14 empowers the Tribunal to grant dispensation on terms or subject to conditions.

Findings

10. The Tribunal considers that the works were urgent, and that the applicant has acted reasonably in seeking the dispensation sought. It agrees that by utilising the existing scaffolding there will be a significant cost saving to lessees. The Tribunal notes that no Respondent has objected to the application. The Tribunal does not consider that any respondent will be prejudiced by the grant of dispensation. The Tribunal therefore grants dispensation in respect of the MRS works referred to above.
11. This application does not concern the issue of whether any service charge costs will be reasonable or payable. The leaseholders will continue to enjoy the protection of section 27A of the Act.

C Norman FRICS
Valuer Chairman

12 December 2022

Unit Description	Name
Unit A	Kabari Ltd.
Unit B	Kabari Ltd.
11 Arc Tower	Yick Fan & Anny Fan
12 Arc Tower	Mr Kadhom Hussain
13 Arc Tower	Jie Shao & Lawrence Jin
14 Arc Tower	Carlo Giandomenici & Faryal Maudarbocus
15 Arc Tower	Huma Rashid & Majid Rashid
16 Arc Tower	Ms Rishma Kaur & Mr Ihrar Kurji
21 Arc Tower	Divyang Patel
22 Arc Tower	Mr G & Mrs J Liddall
23 Arc Tower	Miss S Aghaj & Mr O Aghaj
24 Arc Tower	Mr D & Mrs M Lloyd
25 Arc Tower	Dr Solomon & Mrs Frida Kuperman
26 Arc Tower	Mr S & Mrs S Bhatia
31 Arc Tower	Mr Kasim & Mrs Larissa Abid
32 Arc Tower	Alizaeh Mahmood
33 Arc Tower	Arvinder & Raminder Chowdhary
34 Arc Tower	Wong Yuan & Yue Yen
35 Arc Tower	Supreme 412 Estates Ltd.
36 Arc Tower	Adetoun Blake
41 Arc Tower	Baljit Singh & Ravit Sethi
42 Arc Tower	Mr D & Mrs M Lloyd
43 Arc Tower	Mr K Doyle & Mrs Z De Doyle
44 Arc Tower	Supreme 412 Estates Ltd.
45 Arc Tower	Miss V Poon
46 Arc Tower	Mr Nilesh & Mrs Sadhna Sanghvi
51 Arc Tower	Sarang & Bejal Shah
52 Arc Tower	Mr Andrew Marshall & Ms Nancy Khim
53 Arc Tower	Mr H Aghaj
54 Arc Tower	Trafalgar Properties & Investments Corp.
55 Arc Tower	Supreme 412 Estates Ltd.
56 Arc Tower	A Crain & Navin Hingorani
61 Arc Tower	Mr R Sladek
62 Arc Tower	Dr N & Dr R Neminathan
63 Arc Tower	Dr Harbans & Mrs Harpal Gill
64 Arc Tower	Trafalgar Properties & Investments Corp.
65 Arc Tower	K Lord, B Harding & J MacQueen
66 Arc Tower	Mr William & Mrs Terry Roche
71 Arc Tower	Dr Solomon & Mrs Frida Kuperman

72 Arc Tower	Yogesh Paranjpe
73 Arc Tower	Mr Anuj Lama
74 Arc Tower	Mr Vishal Varshnei
75 Arc Tower	Mr Khurram Hashmi
76 Arc Tower	Fellwood Properties Ltd.
81 Arc Tower	Gurpreet Sanghera
82 Arc Tower	James, Ann & Katherine Wolstencroft
83 Arc Tower	Mr Michael Nevin
84 Arc Tower	Yee Ch'ng & Koon Ng
85 Arc Tower	Elizabeth Webster & Grace Webster
86 Arc Tower	Oluwasijibomi Banjoko
91 Arc Tower	Umesh Kotecha
92 Arc Tower	Ravi & Smina Mehta
93 Arc Tower	Mrs Sally Richards
94 Arc Tower	Pei Lim
95 Arc Tower	Mr Ian Chan
96 Arc Tower	Mr N Braisby & Mr I Hodges
101 Arc Tower	Umesh Kotecha
102 Arc Tower	Dr J Edwards
103 Arc Tower	Hussain Shiri
104 Arc Tower	Mr A March
105 Arc Tower	Mr Amit Gupta & Mrs Vineeta Gupta
106 Arc Tower	Mr Amit Gupta & Mrs Vineeta Gupta
111 Arc Tower	Bhavik Patel
112 Arc Tower	Swee Quek & Fui Quek
113 Arc Tower	Dr Ahmed Abdelaal & Mrs D Temraz
114 Arc Tower	Ashish Patel & Anisha Amin
115 Arc Tower	Mr Amit Gupta & Mrs Vineeta Gupta
116 Arc Tower	Mr Amit Gupta & Mrs Vineeta Gupta
121 Arc Tower	Jer & Jonathan Jang
122 Arc Tower	Beloslava Gorelova
123 Arc Tower	Vijaykumar, Swati & Aruja Vashi
124 Arc Tower	Mr M Fox
125 Arc Tower	Mr Amit Gupta & Mrs Vineeta Gupta
126 Arc Tower	Mr Amit Gupta & Mrs Vineeta Gupta
131 Arc Tower	Mr P Synnott
132 Arc Tower	Mr G Roper
133 Arc Tower	Cheng Kay
134 Arc Tower	Hun Chuah & Khoon Boon
135 Arc Tower	Mr Mustapha El Amrani
141 Arc Tower	Hinal & Sonal Patel
142 Arc Tower	Wai Chow
143 Arc Tower	Oliver Win & Mika Nakao
144 Arc Tower	Mr A & Mrs S Jamjoon
145 Arc Tower	Afaf Kodsey

151 Arc Tower	Nowmedical Ltd.
152 Arc Tower	Ms Elena Alekseeva
153 Arc Tower	Mr Khalid & Mrs Tahira Chaudhry
161 Arc Tower	Mr D Karadimos & Mr P Antonopoulou
162 Arc Tower	Mr Chan To & Mrs Loh Ping
163 Arc Tower	Qudratullah Razaq
171 Arc Tower	Mohamed Patel & Fatema Bhabha
172 Arc Tower	Jasjit Kalsi & Harwinder Kalsi
173 Arc Tower	Mr D Dwyer
181 Arc Tower	Dalia Tadros & Bassel Sad
191 Arc Tower	Dalia Tadros & Bassel Sad

ANNEX - RIGHTS OF APPEAL

- The Tribunal is required to set out rights of appeal against its decisions by virtue of the rule 36 (2)(c) of the Tribunal Procedure (First-tier Tribunal)(Property Chamber) Rules 2013 and these are set out below.
- If a party wishes to appeal against 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.

Appendix

Section 20ZA Landlord and Tenant Act 1985

(1) 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 or qualifying long term agreement, the Tribunal may make the determination if satisfied that it is reasonable to dispense with the requirements.

(2) In section 20 and this section—

“qualifying works” means works on a building or any other premises, and

“qualifying long term agreement” means (subject to subsection (3)) an agreement entered into, by or on behalf of the landlord or a superior landlord, for a term of more than twelve months.

(3) The Secretary of State may by regulations provide that an agreement is not a qualifying long term agreement—

(a) if it is an agreement of a description prescribed by the regulations, or

(b) in any circumstances so prescribed.

(4) In section 20 and this section “the consultation requirements” means requirements prescribed by regulations made by the Secretary of State.

(5) Regulations under subsection (4) may in particular include provision requiring the landlord—

(a) to provide details of proposed works or agreements to tenants or the recognised tenants’ association representing them,

(b) to obtain estimates for proposed works or agreements,

(c) to invite tenants or the recognised tenants’ association to propose the names of persons from whom the landlord should try to obtain other estimates,

(d) to have regard to observations made by tenants or the recognised tenants’ association in relation to proposed works or agreements and estimates, and

(e) to give reasons in prescribed circumstances for carrying out works or entering into agreements.

(6) Regulations under section 20 or this section—

(a) may make provision generally or only in relation to specific cases, and

(b) may make different provision for different purposes.

(7) Regulations under section 20 or this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.