

12877



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

Case Reference : **LON/00AW/LDC/2018/0104**

Property : **Collier House, 163-169 Brompton Rd,
London SW3 1PY**

Applicant : **Crester Limited**

Representative : **Knight Frank LLP**

Respondents : **Various as per the 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 : **2 July 2018**

DECISION

Decision

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

Reasons

Background

2. Application to the Tribunal was made on 12 June 2018 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 upgrade to the fire alarm systems.
3. Directions were issued on 13 June 2018 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 publicity to be given to the application in the block. In addition, the respondents were invited to respond to the application. The Tribunal did not inspect the property.

The Property

4. The property is a modern mixed commercial and residential building comprising 13 residential flats and two commercial units over six floors. The property has been identified as having cladding which comprises aluminium composite material (ACM).

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. The basis of the application is works consequential to a fire risk assessment (FRA) carried out by BB7 in early 2018. (An email dated 19th of January 2018 has been provided referring to a draft version of the FRA; an undated extract from what the tribunal assumes is the final FRA is included). The FRA was sought to identify works to obviate the need for a 24/7 waking watch as otherwise required by the Fire Officer and which is costing £28,000 per month. The FRA identified the need for an upgraded fire detection and alarm system. Quotations were supplied by AFS Amthal and Fidelity Integrated Systems for £16,663.06 (+VAT) and £31,432 (+VAT) respectively. The applicant wishes to appoint AFS Amthal.
7. The landlord has served notices of intention on each of the affected leaseholders and seeks dispensation from the requirements to consult further.

The Respondents' Case

8. The respondents did not respond to the application but no objections were received.

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 are urgent and that the applicant has acted reasonably in seeking the dispensation sought. The Tribunal does not consider that any respondent will be prejudiced by curtailment of the full consultation procedure. The Tribunal therefore grants dispensation in respect of the works and quotation from AFS Amthal for £16,663.06 (+VAT) referred to above.
11. This application does not concern the issue of whether any service charge costs will be reasonable or payable. The residential leaseholders will continue to enjoy the protection of section 27A of the Act.
12. The Tribunal does not have jurisdiction in relation to the commercial units and this determination does not bind those lessees.

C Norman FRICS
Valuer Chairman

2 July 2018

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

“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.

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

(b) in any circumstances so prescribed.

the consultation requirements

(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.

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

(b) may make different provision for different purposes.

Schedule of Lessees

Michael B limited

Mr Ciro Orsini (in respect of apartments 5A and 5C)

Desmond Cohen and Giulietta Cohen

Mr Al-Omeir

Riess Ltd

Nespresso UK Ltd

Hipericum SrL

Delano Two Ltd (in respect of apartments 2B and 3A)

AMR Investments Ltd

Asha Capital Corp

Basilton Limited

Mr G Dalacouras

Iryna Yedina