



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

Case reference	:	LON/00AA/LDC/2022/0173
Property	:	22 long leasehold properties where the City of London Corporation is the landlord
Applicant	:	The Mayor and Commonality and Citizens of the City of London
Representative	:	Mr Andrew Cusack (ref: CHB005/079/LIT/AC) (email: andrew.cusack@cityoflondon.gov.uk)
Respondent	:	The 22 long residential leaseholders whose financial contribution to the proposed contracts for facilities management services exceeds the prescribed sum of £100
Tribunal Members	:	Judge Dutton Mr C P Gowman MCIEH MCMi BSc

**DECISION ON AN APPLICATION UNDER SECTION 20ZA OF THE
LANDLORD AND TENANT ACT 1985**

DECISION

The Tribunal orders that there be dispensation from the remaining consultation requirements under s20 Landlord and Tenant Act 1985 (the Act) for the reasons set out below

Background:

1. The application made on 30 August 2022 relates to the Applicant's wish to enter into Qualifying Long-Term Agreements (QLTA) for the what is termed a "Call-Off Agreement" for the supply of facilities management services in respect of 21 residential flats which have been grouped within Lot2 relating to Commercial

Property. The current arrangement, which does not appear to be under an Integrated Framework agreement, expires on 31 March 2023. Although the application for dispensation was made at the end of August 2022 it would appear that an agreement has now been entered into with CBRE Managed Services (CBRE) for the reasons set out in a witness statement made by Christina Paraskevaidou the Commercial Operations Manager for the Applicant dated 16 December 2022.

2. This application has been dealt with as a paper determination as provided for in the directions issued by the Tribunal dated 27 October 2022. Those directions clearly set out the background to the application which we do not to repeat here.
3. At the time of the determination, we had before us a bundle consisting of some 95 pages. This included the application, the directions, the grounds and copies of letters sent to tenants including an Initial Notice under s20 of the Act. There were also Proposals concerning QLTA's for properties at 13 South Molton Street; 27 – 29 South Molton Street; 38 Alfred Place; 45 – 46 South Molton Street and 52 South Molton Street
4. In addition, there were a number of objections from the leaseholders of flats at 38 Alfred Place. They were as follows:
 - Mr Carter whose objection was set out in a letter dated 5 December 2022 the contents of which we have noted;
 - Mr and Mrs Boynton complaining that the service provided had deteriorated and this proposed arrangement would, in their opinion, only make matters worse;
 - Mr Fargher who sought consultation but was concerned at the possible increase in costs and present problems with the two flats he owned;
 - Mr Daly who was concerned at the level of service already being supplied and problems with the lift at the property;
 - Mr McNeill who sought agreement to form a management company and employ their own manager and in the alternative that the property should not be 'pooled' and that smaller management companies should be allowed to tender;
 - Mr Morris who objected to the fees that CBRE would require;
 - Mr Davidson who considered that the proposals would result in a further deterioration in service and concerns about the ongoing issues with the lift.
5. In the main these issues had been addressed by the Applicant and we were shown copies of letters in reply from Mr Cusack a Principal Lawyer with The Applicant and from Ms Paraskevaidou offering meetings. It is not clear whether they have taken place and the outcome if they did.

6. The Grounds of the Application set out in detail the reasons for the application and the intentions of the Applicant concerning the entering into of an Integrated Facilities Management agreement and the Call-off arrangements that would flow. The proposed facilities management contracts will run from 1 April 2023 to 31 March 2033. It is said that *“the Framework Agreement, and subsequent Call-Off Agreement will result in lower relevant costs for long leaseholders. However, the use of the Framework Agreement and subsequent Call-off agreement precludes strict compliance with the requirements of the consultation Regulations”*
7. **Our only requirement is to determine whether it is appropriate to dispense with the consultation requirements.**

FINDINGS

8. It would appear that consultation is not sought for the Framework but rather the Call-off agreement with CBRE. The Grounds state that it is not possible to comply with the Act or the Regulations under the Service Charges (Consultation Requirements) (England) Regulations 2003, hence the application for dispensation.
9. We are satisfied that for the Applicant to be able to enter into a QLTA for the Call-Off agreement it would not be possible to undertake the consultation requirements as provided for in the Regulations 2003 for the reasons set out in Grounds.
10. We have noted the objections raised by most of the leaseholders of 38 Alfred Place. We are not aware that any other leaseholder has raised any objection. In the case of 38 Alfred Place according to the witness statement of Ms Paraskevaidou there should be a saving 2.15% on the average price comparables with CBRE. Time will tell.
11. We have considered the Supreme Court Case of Daejan Investments Limited v Benson and other [2013] UKSC 14 and do not consider that there is any prejudice caused to the tenants by granting dispensation. Objections have been raised and considered by the Applicant. In the main they relate to either different ways of dealing with the matter, self-management for example, or complaints that there are ongoing issues, leaks and the lift. We therefore conclude that it is right to dispense with the consultation requirements.
12. Our only requirement is to consider whether or not it is reasonable to dispense with the statutory consultation requirements. Our decision does not affect any other rights that any leaseholder may have.
13. In accordance with the direction 9 of the Tribunal dated 13 September 2022 the Applicant will upload a copy of this decision to its website within 7 days of it being sent to the Applicant.

Tribunal Judge: Judge Dutton

Date:

20 January 2023

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).