



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

Case reference : **LON/00BK/LDC/2022/0244**

Property : **21/23 Buckingham, Palace Road,
London SW1W 0PP**

Applicant : **RG Securities (No.2) Limited**

Representative : **Parkfords Management Limited**

Respondent : **The Leaseholders of the Property which
includes 15/16 Warwick Row, London
SW1W 0PP**

Representative : **None**

Type of application : **Application for dispensation under
s20ZA of the Landlord and Tenant Act
1985**

**Tribunal
member(s)** : **Judge Dutton
Mr D Jagger MRICS**

**Date and venue of
hearing** : **Paper determination**

Date of decision : **14 February 2023**

DECISION

Decisions of the tribunal

The tribunal determines that by virtue of s20ZA of the Landlord and Tenant Act 1985 (the Act) dispensation should be granted from the remaining consultation provisions in respect of the investigation and remedial work to flat 1, as required under s20 of the Act and the Service Charges (Consultation Requirements) (England) Regulations 2003 (the Regulations) for the reasons set out below. We consider some conditions should apply.

Background

1. This is an application under section 20ZA of the Landlord and Tenant Act 1985 (the Act) by the landlord, RG Securities (No.2) Limited in respect of the property 21/23 Buckingham, Palace Road, London SW1W 0PP (the Property) for dispensation from the requirements under s20 of the Act and the Regulations. The application is dated 6 December 2022.
2. We have been supplied with a bundle running to some 88 pages, which includes the application, a statement of reasons prepared by Shelley Fey, the managing director of Parkfords Management Limited (PML) the agents for the Applicant, a copy of the lease for flat 1, letters to the various leaseholders giving Notice of Intention to carry out the works as required by s20 of the Act and a quote from On Call Property Services. We have noted the contents and taken them into account when reaching our decision.
3. The Application indicates that the works for which dispensation is sought relates to the investigation into a leak affecting flat 1, appearing to emanate from the rear roof area between balconies, and remedial works to be carried out as a result of such investigations, which according to the quote would be £1,900 plus VAT for the erection of the scaffolding and presumably investigating the leak. The quote also includes costs of works to repair the balcony at flat 4. However, it is not stated that the damage to flat 1 is linked to the problems with the balcony and dispensation is sought for investigation and any remedial repair for flat 1 only.
4. There are it seems 14 flats in the Property, which includes the 6 flats in Warwick Row who contribute to the service charge regime. There are also two commercial units at ground floor level. On 2 December 2022 a Notice of Intention was sent to all the leaseholders outlining the works needed. On 7 February 2023 the quote from On Call Services was obtained, showing a cost for works to flat 1 of £1,900 to erect scaffolding and investigate and to repair the balcony to flat 4 of £1,800, both were subject to the addition of VAT. It should be noted that the costs of the works are not a matter for this application, which relates only to the dispensation element.

5. Directions were issued on 20 December 2022 indicating that, in the absence of any disagreement the application would proceed as a paper determination. We have seen an email from Gemma Walsh of PML confirming that the documents required to be sent under the directions had been issued to the leaseholders and displayed in the communal areas on 10 January 2023. Subsequently we were informed that no leaseholder had raised an objection to this application.
6. The statement of reasons is somewhat confusing as Ms Fey appears to indicate she represents the respondents (the leaseholders) but we assume that to be a typographical error and that she has submitted the statement on behalf of the Applicant. This sets out the issues relating to flat 1, especially the damage being caused to that property and the need for urgency but does not really expand on what is intended, presumably that being determined once the investigation has been completed.

Findings

7. We have considered this matter solely on the papers before us. This application relates only to the dispensation from the consultation requirements set out at s20 of the Act and the Regulations for investigative works including the erection of scaffolding to the value of £1,900 plus VAT in respect of flat 1 at the Property and the subsequent remedial work, the extent of which will be established once the investigation is complete. It does not relate to the reasonableness or the liability to pay for the costs associated with the works.
8. It is clear from the papers produced that flat 1 is being affected by water ingress and that this needs to be stopped. These are matters that require urgent attention and we are satisfied that it is reasonable to grant dispensation from the consultation requirements. We have borne in mind the Supreme Court decision in *Daejan Investments Limited v Benson and others* [2013] UKSC 14. There is no evidence of any prejudice caused to the leaseholders and indeed none have raised an objection to the application. Dispensation is therefore granted from the remaining elements of the consultation process as provided for in the Regulations. However, we consider that there should be some conditions attached. They are that as soon as the investigation has been completed, PML will notify the leaseholders in writing of the results of the investigation and provide the leaseholders with an estimate of the costs of undertaking the works found to be necessary.

Name: Judge Dutton

Date: 14 February 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).