

**LEASEHOLD VALUATION TRIBUNAL for the
LONDON RENT ASSESSMENT PANEL**

DETERMINATION BY THE LEASEHOLD VALUATION TRIBUNAL

**APPLICATION UNDER S 20ZA OF THE LANDLORD AND TENANT ACT 1985,
as amended**

REF: LON/00AG/LDC/2007/0058

**Address: Various flats at Alvanley Court, 250 Finchley Road, London
NW3 6DN**

Applicant: Mr A N Malik

Respondent: The lessees of Alvanley Court, 250 Finchley Road, NW3 6DN

Tribunal: Mrs JSL Goulden JP

1 The Applicant, who is the landlord of Alvanley Court, 250 Finchley Road, London NW3 6DN ("the property"), has applied to the Tribunal by an application dated 10 October 2007, and received by the Tribunal on 15 October 2007, for dispensation of all or any of the consultation requirements contained in S20 of the Landlord and Tenant Act 1985, as amended ("the Act"). The application was made by Ms D Fisher of the Applicant's managing agents, NG Properties (UK) Ltd.

2. The property is described in the application as a 1920s block comprising sixteen flats.

3. Neither the Applicant nor any of the Respondents requested an oral hearing, and therefore in accordance with Directions issued by the Tribunal on 18 October 2007, this matter was dealt with by way of a paper hearing, which was held on 8 November 2007. Written representations were received on behalf of the Applicant. No written representations were received from any of Respondents.

The Applicant's case

4. The Applicant's grounds for seeking dispensation as set out in the application were *"the heating boiler in Alvanley Court has failed and as the boiler is obsolete and parts are no longer made for it, it is essential to put in a new boiler/boilers in order to provide heating for the flats in the block. We wish to carry out these works without any delay as there is currently no heating in the block and winter will be*

upon us very soon.....the dispensation is being sought in order that we do not have to wait the minimum 60 days required for the consultation procedures to go through. If we were to wait, the block would be without heating for most of the winter which is not wanted by anybody....”.

5. In respect of consultation which had been carried out, it was said “*we have initially advised both lessees, residents and landlord of the situation and have kept them apprised of the situation. We have requested quotes from 3-4 commercial boiler engineers and will be advising lessees of the budget cost and what their contribution will be. We have asked lessees to sign that they are in agreement that the consultation process should be dispensed with in order to move this along as quickly as possible....”.*

6. Ms Fisher provided the Tribunal with a copy of a letter written to all the lessees and dated 1 October 2007. This stated, inter alia, “*we are writing to inform you that this morning there was found to be a problem with the boiler that controls the heating. The engineer attended and advised us that a part is needed to do the required repair. Unfortunately, until this repair is undertaken, it is impossible for the heating to be operated. The boiler was installed in 1987 and DMG Delta are treating this as urgent, but they are initially trying to find out if the part required is still available.*”

7. A further letter dated 3 October 2007 was sent by Ms Fisher to the lessees which stated “*we regretfully inform you that DMG Delta have advised us that the boiler that provides the central heating is obsolete and beyond repair. We have made our own enquiries and have found this to be so. We appreciate that this matter is of an urgent nature and are treating it in such a way*”. This letter also indicated that it had asked the contractors for a quotation for a replacement boiler and the managing agents had contacted two other companies for quotations. The lessees were also asked to supply the names of any other contractors who specialised in commercial boilers in order that quotations could be sought from those contractors. A copy of the quotation from DMG Delta, which included a necessary upgrade of the flue (at £17,254 plus VAT plus a budget cost of £5,000 plus VAT) was sent to each lessee in a letter of 8 October 2007.

The Tribunal's determination

8. The Tribunal has had sight of the report on the condition of the boiler by DMG Delta dated 2 October 2007 and notes the correspondence sent to the lessees by Ms Fisher. The application was lodged at the Tribunal very shortly after the condition of the boiler was known. It is unfortunate that, at the time of the paper hearing, and although the Tribunal has had sight of the quotation from DMG Delta, it has not had sight of any other quotations from other contractors

9. The managing agents confirmed by a letter to the Tribunal dated 24 October 2007 that a copy of the application and the Tribunal's Directions had been distributed to each lessee. The Tribunal has received no representations from the Respondents save for a copy of an email from the lessee of Flat 8 who confirmed that that lessee had no objection to dispensation of the consultation requirements.

10. The Tribunal must have a cogent reason for dispensing with the consultation requirements, the purpose of which is that tenants who may ultimately foot the bill are fully aware of what works are being proposed, the cost thereof and have the opportunity to nominate contractors.

11. In the circumstances of this particular case, it is clear from the documentation, and in particular the report from DMG Delta dated 2 October 2007 that the materials required for that part of the boiler sections which required repair are not available and that the boiler is obsolete. A new boiler is required. Bearing in mind that winter is approaching, it is felt that to comply with full consultation requirements as required by the Act would mean that the occupants of Alvanley Court would be without heating during the coldest part of the year.

12. Accordingly the Tribunal determines that those parts of the consultation process which have not been complied with may be dispensed with.

13. It should be noted that in making its determination, and as stated in Directions, this application does not concern the issue of whether any service charge costs are reasonable or payable by the lessees. The Tribunal's determination is limited to this application for dispensation of consultation requirements under S20ZA of the Act.

CHAIRMAN..........

DATE8 November 2007.....