



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

Case Reference : LON/00AT/LDC/2016/0075

Property : Flats 1-15 Kelvin Court, Spencer Road, London, W4 3SX

Applicant : Crafrule Limited

Representative : J S Estates

Respondents : (See Schedule attached to these Reasons)

Representative :

Type of Application : To dispense with the statutory consultation requirements

Tribunal Members : Mrs H Bowers, MRICS

Date and venue of Consideration : 14 October 2016, 10 Alfred Place, London WC1E 7LR

Date of Decision : 14 October 2016

DECISION

The Tribunal grants the application for dispensation from further statutory consultation in respect of the subject works. For clarity the works are the replacement of the boiler cylinders and associated pipe work.

REASONS

The Application

1. The Applicant seeks a determination pursuant to section 20ZA of the Landlord and Tenant Act 1985 ("the Act") dispensing with statutory consultation in respect of major works.
2. 1-15 Kelvin Court, Spencer Road, London, W4 3SX (the subject property) is described as a purpose built block of flats, comprising two entrances. The Applicant, Crafrule Limited is the freeholder of the subject property and the Respondents are the leaseholders of ten of the flats within the subject property. It would appear that the remaining five flats are retained by the Applicant.
3. The application is dated 29 July 2016 and the signed application was received on 2 August 2016. Directions were issued by the Tribunal on 5 August 2016. The Directions initially listed the matter for a paper determination for the week commencing 5 September 2016, unless any party made a request for a hearing. There was no request for a hearing. There were further Directions issued by the Tribunal and accordingly the case was set down to be considered on the basis of the written submissions in the week commencing 10 October 2016.
4. The application seeks dispensation in respect of the replacement of the boiler cylinders and associated pipe work. It was explained that at the time of the application there was only one boiler cylinder providing communal hot water to the flats. There were concerns about how long the one operational boiler would remain functional. The lack of hot water to the flats would cause serious health and safety concerns.
5. In the application it was explained that a Notice of Intention was served on the leaseholders on 29 July 2016 and that the covering letter stated that an application was to be made to the Tribunal. Further there was an intention to serve a Notice of Estimates within the 30 day consultation period. Copies of this correspondence were not provided to the Tribunal.
6. In response to the further Directions, the Applicant provided two quotations. The first estimate was from New Look Building Services and was dated 13 September 2016. The quotation was for the sum of £16,500 including VAT and provided for the removal and replacement of two hot water cylinders and associated works. The second quotation was from BMC Combustion and was dated 15 September 2016 and again provides for the removal and replacement of two hot water cylinders and associated works at a cost of £15,544.75 excluding VAT.
7. Directions invited any Respondent who opposed the application to submit a response form and to make any statement of response to the Applicant by 24 August 2016. Only one form was received from Mr Stone of 3

Kelvin Court. He stated that as he had his own separate heating and hot water system he had no need or requirement for a communal system.

Determination

8. Section 20ZA(1) of the Act provides:

“Where an application is made to a leasehold valuation 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.”

9. The Tribunal has taken account the decision in *Daejan Investments Ltd v Benson and others* [2013] UKSC 14.

10. There has only been engagement from one of the Respondents. Mr Stone’s opposition relates to his own provision for heating and hot water within his flat. However, those circumstances do not impact on the consideration as to whether the consultation process should be dispensed with.

11. The description of the problem and the impact that it would have upon the leaseholders at the subject property is sufficient evidence that the subject works were of an urgent nature. If the remaining hot water boiler cylinder was to fail, then the majority of the leaseholders would be without an effective hot water supply. The Tribunal accepts the Applicant’s submission that the failure of the hot water supply would have health and safety implications for the leaseholders. In all the circumstances the Tribunal grants the application for dispensation from statutory consultation in respect of the subject works, considering it reasonable to do so. For clarity the works are the replacement of the boiler cylinders and associated pipe work

12. This decision does not affect the Tribunal’s jurisdiction upon any application to make a determination under section 27A of the Act in respect of the reasonable cost of the work.

13. Finally, the Tribunal directs that the Applicant is to send a copy of this decision to each of the Respondents, within 7 days of receipt of this decision.



Name: H C Bowers

Date: 14 October 2016

ANNEX - RIGHTS OF APPEAL

1. 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.
2. 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.
3. 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.
4. 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

SCHEDULE

Ms J G Kosanovic	Flat 1, Kelvin Court
Mr J Price	Flat 2, Kelvin Court
Mr R Stone	Flat 3, Kelvin Court
Mr D Agharokh	Flat 6, Kelvin Court
Mr N Webster & Ms K Taylor	Flat 9, Kelvin Court
Mr J N Ebied	Flat 10, Kelvin Court
Miss R C Manton	Flat 11, Kelvin Court
Mr C A Reading	Flat 12, Kelvin Court
Ms K Rolfsman	Flat 14, Kelvin Court
Mr B Benani	Flat 15, Kelvin Court