



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

Case reference : **LON/00AY/LDC/2020/0128**

**HMCTS code
(paper, video,
audio)** : **P: PAPER REMOTE**

Property : **Harcourt House, Albion Avenue,
London SW8 2AB**

Applicant : **The Mayor and Burgesses of the London
Borough of Lambeth**

Respondents : **The 13 leaseholders at Harcourt House**

Type of application : **Dispensation with Consultation
Requirements under section 20ZA
Landlord and Tenant Act 1985**

Tribunal member : **Judge Robert Latham
Luis Jarero BSc FRICS**

Venue : **10 Alfred Place, London WC1E 7LR**

Date of decision : **15 December 2020**

DECISION

The Tribunal grants this application to dispense with the consultation requirements imposed by section 20 of the Landlord and Tenant Act 1985 without condition in respect of the works carried out to replace the gas fired communal boiler which supplies hot water to Harcourt House.

Covid-19 pandemic: description of hearing

This has been a remote hearing which has not been objected to by the parties. The form of remote hearing was P:PAPER REMOTE. The Directions provided for the application to be determined on the papers unless any party requested a hearing. No party has requested a hearing. The applicant has filed a bundle in support of the application.

The Application

1. The Tribunal has received an application from the London Borough of Lambeth (“Lambeth”) seeking dispensation from the consultation requirements of section 20 of the Landlord and Tenant Act 1985 (“the Act”).
2. The subject property is a 5-storey low-rise purpose-built block of 22 self-contained flats. 13 of those flats are held on long leasehold. Lambeth has applied for dispensation from the statutory consultation requirements in respect of works carried out to replace the gas fired communal boiler which supplies hot water to the Building. The estimated cost of the works is £19,736.40.
3. The application is for an unconditional retrospective dispensation from part of the consultation requirements prescribed by section 20 of the Act. The works have been carried out under a qualifying long term agreement (QLTA). Lambeth state that they have complied with the consultation requirements in respect of the QLTA. They have not complied with the consultation requirements in respect of the works to the boiler. Lambeth state that it was an inadvertent part-failure to comply with the relevant consultation requirements due to the emergency nature of the works and the need to take remedial action to prevent risk to residents’ health.
4. On 25 September 2020, the Tribunal issued Directions. Tribunal stated that it would determine the application on the papers, unless any party requested an oral hearing. By 7 October, Lambeth was directed to send to each of the leaseholders by email, hand delivery or first-class post, copies of the application form (excluding any list of respondents’ names and addresses) and a copy of the directions.
5. On 6 October, Lambeth confirmed that they had served a copy of the application and the Directions on the leaseholders on 5 October by first class post and by email where they hold an email address for them.
6. By 12 October, any leaseholder who opposed the application was directed to complete a Reply Form which was attached to the Directions and email it both to the Tribunal and to the applicant. The leaseholder

was further directed to send the applicant a statement in response to the application. No leaseholder has returned a completed Reply Form. No party requested an oral hearing. On 30 November, Lambeth confirmed that they have received no statements in opposition to the application.

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

“Where an application is made to the appropriate 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.”

8. The only issue which this Tribunal has been required to determine is whether or not it is reasonable to dispense with the statutory consultation requirements. This application does not concern the issue of whether any service charge costs will be reasonable or payable.
9. The Tribunal is satisfied that it is reasonable to grant retrospective dispensation from the statutory consultation requirements. This is justified by the urgent need for the works. There is no suggestion that any prejudice has arisen. In the circumstances, it is appropriate to grant dispensation without any conditions.
10. The Directions made provision for the service of the Tribunal’s decision. The Tribunal will send, by email, a copy of its decision to Lambeth. The Tribunal directs Lambeth to send a copy to the leaseholders.

Judge Robert Latham
15 December 2020

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 **by e-mail** 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).