



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

Case reference : **LON/00AG/LDC/2020/0164**

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

Property : **1-16 Fitzjohn's House, 46 Fitzjohn's
Avenue, NW3 5LU**

Applicant : **HML Group (managing agents)**

Respondent : **The 16 leaseholders at St John's 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 : **16 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 to the lift.

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 HML Group (“the applicant”), dated 25 August 2020, seeking dispensation from the consultation requirements of section 20 of the Landlord and Tenant Act 1985 (“the Act”). The applicant is the managing agent appointed by Cedek Properties Ltd, the lessor, to manage 1-16 Fitzjohn’s House, 46 Fitzjohn’s Avenue, NW3 5LU (“the Block”). The respondents are the 16 leaseholders at the block.
2. In its application, the applicant states that the lift had not been working for a week. A number of the residents are elderly and have mobility problems. Repairs were required as a matter of urgency. The cost of the repairs is £5,508.00, including an HML administration fee of £250 + VAT. The cost is sufficient to trigger the statutory duties to consult.
3. On 20 October 2020, the Tribunal issued Directions. Tribunal stated that it would determine the application on the papers, unless any party requested an oral hearing. By 18 November, the applicant 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. The applicant was further directed to display a copy of both in a prominent place in the common parts of the Block.
4. On 10 November, the applicant confirmed that it had emailed a copy of the application and directions to those leaseholders who have requested email communications only. The applicant proposed to post out letters on 11 November to the remaining leaseholders. It would also display a copy in the communal parts by the end of the week.
5. By 25 November, 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.
6. On 2 December, the applicant emailed the tribunal a bundle of documents in support of their application. The applicant confirmed that

it had not received any objections from the leaseholders. The bundle includes copies of the leases in respect of Flats 4, 5 and 7 and the lease extension in respect of Flat 11. It also includes a copy of the sign displayed in the common parts, and of the letter which was sent to the leaseholders.

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 the applicant. The Tribunal directs the applicant to send a copy to the leaseholders.

Judge Robert Latham
16 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).