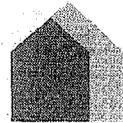


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LONDON RENT ASSESSMENT PANEL

**DECISION OF THE LEASEHOLD VALUATION TRIBUNAL**

**ON AN APPLICATION UNDER SECTION 20ZA OF THE LANDLORD AND  
TENANT ACT 1985**

**Case Reference:** LON/00AN/LDC/2011/0105

**Premises:** Latymer Court, 140 Hammersmith Road, London  
W6 7JB

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**Applicant(s):** Latymer Freehold Co Ltd

**Representative:** Willmotts, chartered surveyors

**Respondent(s):** All the residential tenants

**Representative:** In Person

**Date of directions:** 28<sup>th</sup> November 2011

**Date of decision:** 6<sup>th</sup> February 2012

**Leasehold Valuation  
Tribunal:** Mr Adrian Jack, Mr Trevor Sennett

## Procedural

1. By an application received by the Tribunal on 28<sup>th</sup> October 2011 the landlord sought dispensation under section 20ZA from the consultation requirements contained in section 20 of the Landlord and Tenant Act 1985 and the regulations made thereunder.
2. The Tribunal gave directions on 28<sup>th</sup> November 2011, which provided for the issues to be determined on paper, but gave all parties the right to apply for a hearing. No party has requested a hearing, so the Tribunal determines the matter on paper.

## Facts, law and discussion

3. The block consists of some 375 flats let on long leases with some 45 commercial premises. The block fronts onto Hammersmith Road and was built in the 1930's. The landlord is obliged to provide a communal central heating and hot water service to the residential tenants. Central heating is to be provided from 1<sup>st</sup> October to 30<sup>th</sup> April.
4. The Landlord and Tenant Act 1985 as amended requires a landlord to carry out a two stage consultation process before carrying out major works: see section 20. If the landlord does not comply he is limited to recovering £250 per flat. The Tribunal is given a discretion to disapply the consultation requirements in appropriate cases: see section 20ZA.
5. On 6<sup>th</sup> April 2011 a basic dilapidation report was undertaken by Birdsell Services Ltd for Wilmotts Property Management, the managing agents for the block. The report identified major deficiencies and safety issues related to the boiler house and flues serving the three hot water boilers. Works in relation to the hot water boilers were ordered without consultation under section 20 as the cost did not reach the threshold required.
6. As work progressed it became apparent that, whilst there were separate boilers for the provision of central heating, the flues serving these boilers were interconnected with the flue for the hot water boiler. The central heating system required work to make it safe. If the works to the central heating flues were not done, both the hot water and the central heating system would have to be turned off.
7. The current application seeks dispensation from the consultation requirements. If a full section 20 consultation was carried out it is likely that there would have been no heating in October 2011.

8. The landlord has carried out some consultation. This has resulted in some 18 flats being in favour of the works and four flats being against.
9. The reasons given by those flats who oppose the works are that need for the work should have been identified earlier, when works in 2008-09 were being planned. This is not in our judgment relevant to whether in the events which have happened the works were urgently required. An earlier Tribunal decision was also criticised, but again the Tribunal as currently constituted has no jurisdiction to revisit a decision of an earlier Tribunal.
10. In our judgment the works were urgent, and were required to ensure that Latymer Court was heated during the winter. In these circumstances we have no hesitation in granting a dispensation from the consultation requirements.
11. Such a dispensation does not mean that the tenants cannot challenge the cost and quality of the work. If the tenants seek to challenge the cost or quality of the work done (and the Tribunal gives no opinion whatsoever on the merits of such a challenge), they can do so by issuing appropriate proceedings.
12. There were no applications in respect of costs.

### **DECISION**

**The Tribunal accordingly:**

- (1) grants dispensation under section 20ZA of the Landlord and Tenant 1985 in respect of the major works the subject of the application; and**
- (2) makes no orders in respect of costs.**

### **DIRECTION**

**The Tribunal will serve a copy of the decision on those tenants who have sent in reply forms. The landlord shall by 24<sup>th</sup> February 2012 serve all the other tenants in the block with the decision together with a copy of the Tribunal's notes on appealing. By the same date the landlord shall write to the Tribunal to confirm that it has complied with this direction.**



Adrian Jack, Chairman 9<sup>th</sup> February 2012