



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

Case Reference : LON/00AY/LDC/2015/0043

Property : DRYDEN COURT RENFREW ROAD
LONDON SE11 4NH

Applicant : Dryden Court Freehold Ltd

Representative : Kinleigh Folkard & Hayward

Respondent : ALL LESSEES AS PER
APPLICATION

Representative : n/a

Type of Application : For dispensation from the
consultation requirements
required by section 20 of the
Landlord and Tenant Act 1985

Tribunal Members : Judge Carr
Mr K. Cartwright FRICS

**Date and venue of
Hearing** : 10 Alfred Place, London WC1E 7LR

Date of Decision : 5th May 2015

DECISION

Decision of the Tribunal

1. The Tribunal determines to exercise its discretion to dispense with the consultation requirements contained in Part 2 of Schedule 4 to the Service Charges (Consultation Requirements) England) Regulations 2003.

The Application

2. The freeholder of the premises, by its representative Kinleigh Folkard & Hayward, applied on 13th March 2015 under section 20ZA for dispensation from the consultation requirements contained in Part 2 of Schedule 4 to the Service Charges (Consultation Requirements) England) Regulations 2003.

Procedure

3. The Tribunal held a pre-trial review of this matter on 1st April 2015 and issued directions on the same date. In those directions it was decided that in view of the urgency of the application the matter should be determined on the basis of written representations and without an oral hearing.
4. The Directions gave an opportunity for any party to request an oral hearing. They also gave an opportunity for any leaseholder who wishes to oppose the application from the landlord to provide a statement to the Tribunal setting out his or her reasons for so doing. One response was received which objected to the application but did not request an oral hearing and therefore the matter is being determined on the basis of the papers.

Determination

The Evidence

5. The evidence before the Tribunal indicates as follows:
 - a. The two boilers serving flats 8 – 63 of the block date from 1985 and have recently both experienced problems following a significant failure. Initial advice was to strip down the boilers with a specialist clean before reconnecting. This has not proved successful and therefore the only alternative is complete replacement. The necessity to replace the boilers has been confirmed by contractors and an independent specialist consultant – Chris Bateman of Waterfield Odem and Associates. Parts for the boilers are no longer being manufactured.

- b. The site is currently being supplied with heating and hot water by one of the boilers and a rented temporary boiler. The rented boiler is extremely costly and there is an urgent need for a long term and sustainable replacement. There is particular concern that the remaining boiler will fail compromising the safety of the buildings occupiers.
 - c. The Applicant has commissioned a report from a specialist in support of the application but unfortunately the report was not available at the date of the determination.
6. It is on this basis that the freeholder has made the application for dispensation.
7. The Tribunal received one response to the application from the lessee of Flat 17 who complains of a lack of information and points out that the work could be carried out with consultation over the summer period when the heating is not supplied. The lessee also attaches a history of problems suffered by him and his family at the property.

The Law

8. The Tribunal is being asked to exercise its discretion under s.20ZA of the Act. The wording of s.20ZA is significant. Subs. (1) provides:
9. "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**" (emphasis added).

The Tribunal's decision.

10. The Tribunal determines to grant the application.

The reasons for the Tribunal's decision.

11. The Tribunal determines that the works are necessary and urgent and that any delay may well result in additional costs and would certainly cause great inconvenience if the second boiler fails.
12. The objections to the application from the lessee of Flat 17 appear to be rooted in dissatisfaction with the managing agent. They made a useful point in connection with imminent switch off of the central heating. However as the boiler also provides hot water the need for the works continues to be urgent.

The parties should note that this determination does not concern the issue of whether any service charge costs will be reasonable or indeed payable. The Respondents are able, if it appears to them to be appropriate, to make an application under s.27A of the Landlord and Tenant Act 1985 as to reasonableness and payability.

Signed Judge Carr

Dated 5th May 2015