



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

**Case reference** : **LON/00AM/LDC/2022/0130**

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

**Property** : **1-18 Shakespeare House, Lyme Grove, London E9 6PX**

**Applicant** : **Islington & Shoreditch Housing Association**

**Representative** : **Teslim Fagbeyi and Augustina Dougan**

**Respondents** : **The lessees listed in the schedule to the application**

**Type of application** : **To dispense with the requirement to consult leaseholders**

**Tribunal Member** : **Judge N Hawkes**

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

**Date of paper determination** : **3 October 2022**

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**DECISION**

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## **PAPER DETERMINATION**

This has been a paper determination which has not been objected to by the parties. The form of remote determination was P:PAPER REMOTE. A face-to-face hearing was not held because it was not practicable and all issues could be determined on the papers. The documents that the Tribunal was referred to are contained in a bundle of 299 pages. The order made is described below.

### **Decision of the Tribunal**

The Tribunal determines, pursuant to section 20ZA of the Landlord and Tenant Act 1985, that it is reasonable to dispense with the statutory consultation requirements in respect of the work which forms the subject matter of the Applicant's application dated 5 July 2022.

### **Background**

1. The Applicant has applied to the Tribunal under S20ZA of the Landlord and Tenant Act 1985 ("the 1985 Act") for dispensation from the consultation requirements contained in section 20 of the 1985 Act in respect of certain qualifying works to 1-18 Shakespeare House, Lyme Grove, London E9 6PX ("the Property").
2. The Tribunal has been informed that the Property is a four-storey purpose-built block containing eighteen flats.
3. The Applicant seeks dispensation from the consultation requirements in respect of proposed work to replace middle and back doors at the Property and to install a fob entry system.
4. The work was scheduled to be carried out on 22 and 23 September 2022 and is described in greater detail in the Applicant's application and supporting documents.
5. The application is dated 5 July 2022 and the Respondent lessees are listed in a schedule to the application.
6. Directions of the Tribunal were issued on 24 August 2022.
7. The Applicant has requested a paper determination. No application has been made by any of the Respondents for an oral hearing. This matter has therefore been determined by the Tribunal by way of a paper determination on 3 October 2022.
8. The Tribunal did not consider an inspection of the Property to be necessary or proportionate to the issues in dispute.

## **The Applicant's case**

9. In the application, the Applicant states:

*“The front door has been vandalised, and has temporarily been repaired with wooden planks across the door. The middle door leading to the flats has a lock mechanism (that works in conjunction with the front door's lock mechanism) does not currently work as the front door has been vandalised. There is a back door also to the block and all 3 doors are integrated by fob system. There are reported rough sleepers in the building, and the break-in has been reported to the police with gun related incident (Crime reference number 4613302/22). There have been security concerns from residents regarding missing mails, parcels, people using drugs and easy access to the building. There is Safer Neighbourhoods Team who carry out regular patrol in the area.*

*The urgency is on the basis of concern for our residents' security as we intend to replace the doors within the next few weeks (due to lead time to order and install the doors) and to abide with the regulations.*

*The cost for the front door will be recovered through building insurance, the cost for the middle and back doors is proposed to be recovered through service charges for which we seek dispensation. This is to enable us install the replacement doors before the completion of the 2 stage consultation process (which usually takes about 3 months)*

...

*The proposed qualifying works are to replace and install the front, middle and back door to the block. The doors are Delta Model 9 door with fob system. The 3 doors are integrated by FOB system. The front and middle doors work in conjunction with the front door lock mechanism, which is faulty due to the vandalism.*

...

*We have sent an informal letter to all residents including leaseholders to inform them of our intention to replace the 3 doors in the block, and seek dispensation due to safety concerns and need to undertake the works before the 2 stage consultation is completed.*

*A first stage Section 20 notice of intention (Schedule 4 part 2) has also been issued to residents and explaining that we are seeking dispensation to carry out the works before the 2 stage consultation process is ended, and as such may not be able to offer the opportunity to nominate a contractor in the first stage for tendering due to the primary safety concerns to have the works done as soon as possible”*

10. In a Statement of Case contained in the determination bundle, the Applicant provides further detail and states that two tenders were sought, that the contractor whose estimate was the lowest was instructed, and that the installation of the new doors was scheduled to take place on 22 and 23 September 2022.
11. The Applicant has also provided the Tribunal with copies of correspondence with leaseholders, a quotation with photographs, correspondence with the Tribunal, and a sample lease.

### **The Respondents' case**

12. Observations/questions from leaseholders which were sent to the Applicant and the Applicant's responses are included in the determination bundle. The matters raised with the Applicant include issues concerning the reasonableness and payability of service charge costs which fall outside the scope of this application for dispensation.
13. None of the Respondents has submitted a reply form to the Tribunal and/or made representations to the Tribunal opposing the Applicant's application for dispensation from the statutory consultation requirements.

### **The Tribunal's determination**

14. Section 20 of the 1985 Act provides for the limitation of service charges in the event that statutory consultation requirements are not met.
15. The consultation requirements apply where the works are qualifying works (as is the case in this instance) and only £250 can be recovered from a tenant in respect of such works unless the consultation requirements have either been complied with or dispensed with.
16. The consultation requirements are set out in the Service Charges (Consultation Requirements) (England) Regulations 2003.
17. Section 20ZA of the 1985 Act provides that, where an application is made to the Tribunal for a determination to dispense with all or any of the consultation requirements in relation to any qualifying works, the Tribunal may make the determination if satisfied that it is reasonable to dispense with the requirements.
18. In all the circumstances and having considered the contents of the determination bundle including:

- a. the Applicant's application;
- b. the evidence filed in support of the application; and
- c. the fact that none of the Respondents has submitted a reply form to the Tribunal and/or made representations to the Tribunal opposing the Applicant's application for dispensation from the statutory consultation requirements.

the Tribunal determines, pursuant to section 20ZA of the Landlord and Tenant Act 1985, that it is reasonable for the reasons put forward by the Applicant to dispense with the statutory consultation requirements in respect of the work which forms the subject matter of the Applicant's application dated 5 July 2022.

**19. This decision does not concern the issue of whether any service charge costs will be reasonable or payable.**

Judge N Hawkes

Date: 3 October 2022

**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 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).