



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

Case reference : **LON/00AL/LDC/2018/0152**

Property : **Bernersmede, 61 Blackheath Park,
Blackheath, London SE3 9SH**

Applicant : **Bernersmede Management Limited**

Representative : **Residential Block Management
Services Limited**

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**

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

**Date of paper
determination** : **15 October 2018**

DECISION

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 Bernersmede, 61 Blackheath Park, Blackheath, London SE3 9SH ("the Property").
2. The Tribunal has been informed that the Property comprises eighteen flats which are spread over two blocks.
3. The application is dated 31 August 2018 and the respondent lessees are listed in a schedule to the application.
4. Directions of the Tribunal were issued on 17 September 2018. The applicant has requested a paper determination.
5. 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 15 October 2018.
6. The Tribunal did not consider an inspection of the Property to be necessary or proportionate to the issues in dispute.

The applicant's case

7. The applicant applies for dispensation from the requirements to consult leaseholders under section 20 of the 1985 Act in respect of work to the communal boiler which serves the Property ("the Work").
8. The applicant states that this application is urgent and that there is insufficient time to carry out a full statutory consultation because the pipework feeding the communal hot water boiler leaks and the whole of the Property is without hot water. The applicant proposes to replace the pipework and has obtained quotations.

The respondents' case

9. None of the respondents have filed a reply form and/or representations opposing the applicant's application.

The Tribunal's determination

10. Section 20 of the 1985 Act provides for the limitation of service charges in the event that statutory consultation requirements are not met.

11. 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.
12. The consultation requirements are set out in the Service Charges (Consultation Requirements) (England) Regulations 2003.
13. 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.
14. In all the circumstances, having considered the application, the evidence in support, and the lack of any opposition and/or challenge to the applicant's account on the part of the respondents, I determine, pursuant to section 20ZA of the Landlord and Tenant Act 1985, that it is reasonable in all the circumstances to dispense with the statutory consultation requirements in respect of the Work which forms the subject matter of the applicant's application dated 31 August 2018.
15. **This decision does not concern the issue of whether any service charge costs will be reasonable or payable.**

Judge Hawkes

Date 15 October 2018

ANNEX - RIGHTS OF APPEAL

1. 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.
2. 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.
3. 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.

4. 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.