



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

**Case Reference** : **LON/00BK/LDC/2020/0057**

**Properties** : **Two Hyde Park Square London W2  
2JY**

**Applicant** : **Two Hyde Park Square  
Management Company Ltd**

**Representative** : **London Residential Management  
Ltd**

**Respondents** : **36 long leaseholders in Two Hyde  
Park Square**

**Representative** : **None**

**Type of Application** : **To dispense with the statutory  
consultation requirements**

**Tribunal Members** : **Mr Duncan Jagger MRICS**

**Covid-19 pandemic: description of hearing**

**Date and venue of Consideration**

**:**

**This has been a remote hearing on the papers which has been consented to by the parties. The form of remote hearing was :PAPER REMOTE. A face-to-face hearing was not held because no-one requested the same, or it was not practicable, and all issues could be determined on paper. The documents that I was referred to are in a bundle of 31 pages, the contents of which I have noted.**

**Date of Decision**

**:**

**8th September 2020**

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**DECISION**

The Tribunal grants the application for dispensation from further statutory consultation in respect of the subject works. For clarity the works are set out in a schedule attached to the application and a specifically relate to the repair and replacement parts of the communal air conditioning and heating system for the building.

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## REASONS

### The Application

1. The Applicant seeks a determination pursuant to section 20ZA of the Landlord and Tenant Act 1985 (“the Act”) dispensing with statutory consultation in respect of major works.
2. This application is in relation to 36 self contained converted flats which form part of Two Hyde Park Square which is described as a nine storey building including basement (the subject property). The property was converted during 2010/2011 to provide residential apartments. The Applicant, Two Hyde Park Square Management Limited is the management company and the freeholder of the property is Liberty Property (GP) and Liberty Nominees. The Respondents are the 36 various leaseholders of the building.
3. The application, made by London Residential Management Ltd on behalf of the Applicant, was dated 24 July 2020. Directions were issued by the Tribunal on 22 June 2020. The Directions listed the matter for a paper determination for the week commencing 7 September 2020, unless any party made a request for a hearing. There was no request for a hearing.
4. The application and supporting statement seeks dispensation in respect of the communal air conditioning and heating system which provides heating and cooling to each of the flats. The applicants confirm that units 2 and 3 broke down before Christmas leaving approximately 20 of the 36 flats without heating. Due to the urgency, LRM (with approval of the client directors) had the system inspected and repairs noted.

The inspection revealed faulty compressor units and inverter PCB's required replacing and new refrigerant run through the system. The cost for both units totalling £12,132.89. The lead time to obtain the new parts was approximately 4 weeks and parts could not be ordered until contractor formally instructed and a 50% payment made towards the cost of the works. Instructions were given to contractor (Curaim) on 11th December 2019 with work commencing on Monday 13th January 2020. Following the initial repair, further faults were found on system 2 which were linked to a faulty slave compressor at an additional cost of £4,768.80. The appointed specialist then found that the circuit breakers were insufficient to deal with the power consumption during heavy use and advised that these be replaced to reduce the risk of the system tripping during high use. This work was carried out 17th April 2020 at a cost of £2,155.20. Therefore the total cost of the works was £19,718.00. The application has been made because due to the varying apportionments of the service charge at Two Hyde Park Square, the S20 threshold was too low to undertake the urgent work without consulting, however due to the urgent nature of the work (taking into account that families with children reside within some properties), it was felt prudent to proceed and seek dispensation. The applicant has provided a copy of the service charge apportionments and the highest share = 6.73 % = threshold of £3,714.71

5. The applicant states that a Notice of Intension was submitted to the leaseholders on the 24 April 2020 informing the various leaseholders of the details of the urgent works

6. The Directions invited any Respondent leaseholders who opposed the application to submit a response form to the Tribunal and to make any statement of response to the Applicant by 27 July 2020. London Residential Management Ltd confirms there were no observations or objections from the 36 leaseholders

### **Determination**

7. Section 20ZA(1) of the Act provides:

*“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.”*

8. The Tribunal has taken account the decision in *Daejan Investments Ltd v Benson and others* [2013] UKSC 14.

9. As mentioned above there has been no engagement from the thirty six Respondents. The works are of an urgent nature in order to provide heating to the apartments. In all the circumstances the Tribunal grants the application for dispensation from statutory consultation in respect of the subject works, considering it reasonable to do so. For clarity the works are to maintain and replace defective parts in connection with the communal heating and air conditioning system.

10. This decision does not affect the Tribunal’s jurisdiction upon any future application to make a determination under section 27A of the Act in respect of the reasonable cost of the work.

**Name:** D Jagger MRICS

**Date:** 8 September 2020

## **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.