



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

Case reference : **LON/00AG/LDC/2021/0243**

HMCTS code : **P: PAPER REMOTE**

Property : **Kendall Court, 62-64 Shoot Up Hill,
London, NW2 3PD**

Applicant : **Kendal Court Residents Association
Limited**

Representative : **Michael Richards and Co
(Adam Goldwater)**

Respondents : **The 32 leaseholders of Kendall Court,
62-64 Shoot Up Hill, London, NW2 3PD**

Type of application : **Dispensation with Consultation
Requirements under section 20ZA
Landlord and Tenant Act 1985**

Tribunal member : **Judge Robert Latham**

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

Date of decision : **9 November 2021**

DECISION

The Tribunal grants this application to dispense with the consultation requirements imposed by section 20 of the Landlord and Tenant Act 1985 without condition in respect of urgent works to the communal boilers.

Covid-19 pandemic: description of hearing

This has been a remote hearing which has not been objected to by the parties. The form of remote hearing was P:PAPER REMOTE. The Directions provided for the application to be determined on the papers unless any party requested a hearing. No party has requested a hearing. The applicant has filed a bundle in support of the application.

The Application

1. On 29 September 2021, the Tribunal received an application from the Kendal Court Residents Association Limited (“the Applicant”) seeking dispensation from of the consultation requirements imposed by section 20 of the Landlord and Tenant Act 1985 (“the Act”). The application relates to Kendall Court, 62-64 Shoot Up Hill, London, NW2 3PD (“the Property”). This is a 1930’s block of 32 purpose built flats with a communal heating and hot water system.
2. The Applicant states that the emergency started in August when a gas leak occurred on the incoming gas main within the meter compartment which required, amongst other things, replacement of the governor. Flue gas emissions comprising carbon monoxide and carbon dioxide were discovered being emitted from the boiler heat exchanger compartments into the boiler room. Further investigation noted severely corroded burner components and leaking heat exchangers, all of which necessitated the two boilers being shut down. Residents were left without adequate hot water. The two boilers were damaged beyond repair and needed to be replaced immediately. The lack of hot water was exacerbated by the hot water plate heat exchanger which also needed to be upgraded. Other ancillary works including adaptations to the flues also needed to be carried out at the same time.
3. The Applicant has sent regular updates sent to residents regarding the lack of hot water. When the complete replacement of two boilers was identified as being required and a quotation obtained, a detailed explanation was sent to the leaseholders, dated 13 September 2021, together with a demand for their share of the cost of the works. An independent consultant engineer has confirmed that the costs are reasonable. The estimated cost of the works for the two initial boilers is £63,237, with an additional £28,000 for a third boiler.
4. The Freehold is owned by a Resident Management Company and the Board of Directors have liaised with the Managing Agents (Michael Richards and Co) throughout and have instructed the works to proceed without delay.

5. On 23 September, the Tribunal issued Directions. The Tribunal stated that it would determine the application on the papers, unless any party requested an oral hearing. No party has done so.
6. By 30 September, the Applicant was directed to send to each of the leaseholders (and any residential sublessees) by email, hand delivery or first-class post: (i) copies of the application form (excluding any list of respondents' names and addresses) unless also sent by the Applicant; (ii) if not already detailed in the application form, a brief explanation for the reasons for the application and (iii) a copy of the directions. The Applicant was also directed to display a copy in a prominent position in the common parts of the Property.
7. On 29 September, the Applicant confirmed that it had complied with this Direction.
8. By 14 October, any leaseholder who opposed the application was directed to complete a Reply Form which was attached to the Directions and email it both to the Tribunal and to the Applicant. The leaseholder was further directed to send the applicant a statement in response to the application. No leaseholder has returned a completed Reply Form opposing the application.
9. On 29 October, the Applicant emailed the tribunal a bundle of documents in support of their application. The bundle includes a copy of sample leases dated 1975 and 2009 for Flat 11.
10. Section 20ZA (1) of the Act provides:

“Where an application is made to the appropriate 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.”
11. **The only issue which this Tribunal has been required to determine is whether or not it is reasonable to dispense with the statutory consultation requirements. This application does not concern the issue of whether any service charge costs will be reasonable or payable.**
12. The Tribunal is satisfied that it is reasonable to grant dispensation from the statutory consultation requirements. This is justified by the urgent need for the works. There is no suggestion that any prejudice has arisen. In the circumstances, it is appropriate to grant dispensation without any conditions.

13. The Directions make provision for the service of the Tribunal's decision. The Tribunal will email a copy of its decision to the Applicant. The Applicant is responsible for serving a copy of the Tribunal's decision on all leaseholders.

Judge Robert Latham
9 November 2021

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 **by e-mail** 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).