



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

**Case reference** : **LON/00AE/LDC/2018/0090**

**Property** : **1-24 The Elms, Nicoll Road, London  
NW10 9AA**

**Applicant** : **1-24 The Elms RTM Ltd**

**Respondents** : **The leaseholders of the Property as  
per the application**

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

**Tribunal member** : **Judge P Korn**

**Date of decision** : **29<sup>th</sup> October 2018**

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**DECISION**

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### **Decision of the tribunal**

The tribunal dispenses unconditionally with the consultation requirements in respect of the qualifying works which are the subject of this application.

### **The application**

1. The Applicant seeks dispensation under section 20ZA of the Landlord and Tenant Act 1985 (“**the 1985 Act**”) from the consultation requirements imposed on the landlord by section 20 of the 1985 Act in relation to certain qualifying works.
2. The Property is a purpose-built block of 24 flats.
3. The application concerns qualifying works which have already been carried out. The works comprise the replacement of all of the front doors to the flats with fire doors.

### **Paper determination**

4. In its application the Applicant stated that it would be content with a paper determination if the tribunal considered it appropriate. In its directions the tribunal stated that it would deal with the case on the basis of the papers alone (i.e. without an oral hearing) but noted that any party had the right to request an oral hearing. No party has requested an oral hearing and therefore this matter is being dealt with on the papers alone.

### **Applicant's case**

5. The Applicant states that none of the front doors is a fire door and that therefore all of the doors had to be replaced as an emergency due to the fire risk. This follows on from a Fire Safety Order requiring all flat doors to be replaced as soon as possible, which itself followed on from a fire risk assessment. The directors of the Applicant company have been consulted but it appears there has been no statutory or other consultation with leaseholders.
6. The Applicant has not provided a bundle of documents on which it is relying in support of its application despite the directions requiring it to do so and despite the tribunal writing to the Applicant reminding that it had not done so.
7. The Applicant has confirmed to the tribunal that it has sent a copy of the tribunal's directions to all leaseholders together with a copy of the completed application for dispensation and has also displayed these

documents in the common parts. It has also confirmed that it has not received any objections to its application from leaseholders.

### **Responses from the Respondents**

8. None of the Respondents has written to the tribunal to oppose the application.

### **The relevant legal provisions**

9. Under Section 20(1) of the 1985 Act, in relation to any qualifying works *"the relevant contributions of tenants are limited ... unless the consultation requirements have been either (a) complied with ... or (b) dispensed with ... by ... the appropriate tribunal"*.
10. Under Section 20ZA(1) of the 1985 Act *"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..., the tribunal may make the determination if satisfied that it is reasonable to dispense with the requirements"*.

### **Tribunal's decision**

11. As noted above, the Applicant has failed to comply with the tribunal's clear directions, although this might be because the Applicant feels that it has nothing to add to the information contained in the application form plus the copy of the fire risk assessment. In addition, the Applicant only wrote to the tribunal to confirm that no leaseholders had objected to the application after being chased for a response by the tribunal.
12. However, on the basis of the information provided, I am satisfied that the works needed to be carried out urgently due to the fire risk and that therefore to carry out the repairs without first going through the statutory consultation process was appropriate in the circumstances. Whilst in my view there is an unanswered question as to why it was not possible even to **start** the consultation process, I note that none of the Respondents has opposed the application.
13. Therefore, I am satisfied that it is reasonable to dispense with the formal consultation requirements in respect of the qualifying works which are the subject of this application. In the absence of any evidence that the Respondents have been prejudiced by the failure to consult, the dispensation is unconditional.

14. For the avoidance of doubt, this determination is confined to the issue of consultation and does not constitute a decision on the reasonableness of the cost of the works.

**Costs**

15. No cost applications have been made.

**Name:** Judge P Korn

**Date:** 29<sup>th</sup> October 2018

**RIGHTS OF APPEAL**

- A. If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber) a written application for permission must be made to the First-tier Tribunal at the regional office dealing with the case.
- B. 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.
- C. If the application is not made within the 28 day time limit, such application must include a request for extension of time and the reason for not complying with the 28 day time limit; the Tribunal will then look at such reason and decide whether to allow the application for permission to appeal to proceed despite not being within the time limit.
- D. 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.