



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

**Case reference** : **LON/00AW/LDC/2016/0056**

**Property** : **32 – 34 Cadogan Square, Chelsea,  
London SW1X 0JL**

**Applicant** : **34 Cadogan Square Limited**

**Representative** : **Fry & Company, managing agents**

**Respondent** : **The leaseholders as set out on the  
schedule attached to the  
Application**

**Representative** : **Not known**

**Type of application** : **To dispense with the requirement  
to consult lessees (s20ZA Landlord  
and Tenant Act 1985)**

**Tribunal members** : **Tribunal Judge Dutton**

**Date of decision** : **13<sup>th</sup> September 2016**

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**DECISION**

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## DECISION

**The Tribunal determines that dispensation should be given from all the consultation requirements in respect of the works to replace the communal boiler at the Property, 32 – 34 Cadogan Square London SW1X 0JL, (defined as the Works) as required under s20 of the Landlord and Tenant Act 1985 (the Act) for the reasons set out below.**

### **Background**

1. The applicant seeks dispensation under section 20ZA of the Act from all of the consultation requirements imposed on the landlord by section 20 of the 1985 Act<sup>1</sup>.
2. 32 – 34 Cadogan Square is a converted property comprising 7 flats.
3. The application states that “*The communal heating boiler was shut down by a gas safe engineer as the flue was not draining out the combustion to regulation. A boiler replacement has been commissioned to provide essential heating to the flats and communal stairwell*”. It is suggested that the cost of the works are £7,545 on the basis of a quote from Kingswood who have been instructed to proceed. Presently the Property is without heating.
4. Directions were issued on 13<sup>th</sup> June 2016 and included a questionnaire to be returned by each leaseholder indicating whether they supported the application or objected to same. Two such questionnaires have been returned both indicating that the application has their support There do not appear to have been any further returns of the questionnaire and at the time of my determination there do not appear to have been any objections lodged with the Tribunal.
5. The matter came before me for consideration as a paper determination on 13<sup>th</sup> September 2016.
6. Prior to my determination I had available a bundle of papers which included the application, the directions, copies of three quotes and a copy of a feasibility report from Calford Seadon conducted in April 2016. Copies of two specimen leases were on the file.
7. The only issue for me to consider is whether or not it is reasonable to dispense with the statutory consultation requirements in respect of the Works. This application does not concern the issue of whether any service charge costs are reasonable or payable.

### **THE LAW (SEE BELOW)**

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<sup>1</sup> See Service Charges (Consultation Requirements) (England) Regulations 2003 (SI2003/1987) Schedule 4

## **DECISION**

8. I have considered the papers lodged. There is no objection raised by the Respondents, either together or singularly. With the autumn upon us and winter heading clearly it is important to restore the heating to the Property. The managing agent Fry & Company has obtained three quotes and appears to have been instructed by the directors of the Landlord Company to proceed and instruct Kingswood to carry out the works. This was the lowest quote.
9. I am satisfied that it is appropriate to dispense with the consultation requirements for the Works. My decision does not affect the right of the Respondents to challenge the costs or the standard of work should they so wish.

*Andrew Dutton*

Tribunal Judge

Andrew Dutton

13<sup>th</sup> September 2016

### **The relevant law**

#### **Section 20 of the Act**

- (1) Where this section applies to any qualifying works or qualifying long term agreement, the relevant contributions of tenants are limited in accordance with subsection (6) or (7) (or both) unless the consultation requirements have been either—
  - (a) complied with in relation to the works or agreement, or
  - (b) dispensed with in relation to the works or agreement by (or on appeal from) a leasehold valuation tribunal.
- (2) In this section “relevant contribution”, in relation to a tenant and any works or agreement, is the amount which he may be required under the terms of his lease to contribute (by the payment of service charges) to relevant costs incurred on carrying out the works or under the agreement.
- (3) This section applies to qualifying works if relevant costs incurred on carrying out the works exceed an appropriate amount.
- (4) The Secretary of State may by regulations provide that this section applies to a qualifying long term agreement—
  - (a) if relevant costs incurred under the agreement exceed an appropriate amount, or
  - (b) if relevant costs incurred under the agreement during a period prescribed by the regulations exceed an appropriate amount.

- (5) An appropriate amount is an amount set by regulations made by the Secretary of State; and the regulations may make provision for either or both of the following to be an appropriate amount—
  - (a) an amount prescribed by, or determined in accordance with, the regulations, and
  - (b) an amount which results in the relevant contribution of any one or more tenants being an amount prescribed by, or determined in accordance with, the regulations.
- (6) Where an appropriate amount is set by virtue of paragraph (a) of subsection (5), the amount of the relevant costs incurred on carrying out the works or under the agreement which may be taken into account in determining the relevant contributions of tenants is limited to the appropriate amount.
- (7) Where an appropriate amount is set by virtue of paragraph (b) of that subsection, the amount of the relevant contribution of the tenant, or each of the tenants, whose relevant contribution would otherwise exceed the amount prescribed by, or determined in accordance with, the regulations is limited to the amount so prescribed or determined.

### **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).