



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

<b>Case Reference</b>	:	<b>LON/00BA/LDC/2021/0293</b>
<b>Property</b>	:	<b>Carrington House, 1a Montague Road, Wimbledon SW19 1TZ</b>
<b>Applicant</b>	:	<b>Carrington House Right to Manage Co Ltd</b>
<b>Representative</b>	:	<b>Kevin Barry O’Riordan</b>
<b>Respondent</b>	:	<b>The lessees named on the schedule attached to the application.</b>
<b>Representative</b>	:	<b>None</b>
<b>Type of Application</b>	:	<b>An application under section 20ZA of the Landlord &amp; Tenant Act 1985 for dispensation from consultation prior to carrying out works from consultation prior to carrying out works</b>
<b>Tribunal Members</b>	:	<b>Mr I B Holdsworth FRICS MCI Arb Stephen Mason BSc FRICS</b>
<b>Date and venue of Hearing</b>	:	<b>Remote hearing on papers held on 24<sup>th</sup> January 2022</b>
<b>Date of Decision</b>	:	<b>24<sup>th</sup> January 2022</b>

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**DECISION**

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## **Decisions of the Tribunal**

*This has been a remote hearing on the papers which has been not objected to by the parties. A face-to-face hearing was not held because all issues could be determined on paper. The documents referred to in this Decision are in a submitted bundle which was not paginated. The contents of the bundle are relied upon in making this determination.*

## **Decisions of the Tribunal**

**The tribunal determines that dispensation should be given from all the consultation requirements in respect of works to renew the defective secure entry system and communal front door locking mechanism to the Property. The reasons for this determination are set out below.**

## **The application**

1. The applicant seeks a determination pursuant to s.20ZA of the Landlord and Tenant Act 1985 (“**the 1985 Act**”) to dispense with the statutory consultation requirements prior to carrying out the renewal of the entry phone system and communal front door locking mechanism (“**the Works**”) to Carrington House, 1a Montague Road, Wimbledon SW19 1TZ (“**the Property**”).
2. An application was received by the First-tier Tribunal dated 18<sup>th</sup> October 2021 seeking dispensation from the consultation requirements. Directions were issued on 26<sup>th</sup> November 2021 to the applicant. These Directions required the applicant to advise all respondents of the application and provide them with details of the proposed works.
3. The relevant legal provisions are set out in the Appendix to this decision.

## **The hearing**

4. This matter was determined by written submissions. The applicant submitted a bundle of relevant materials to the tribunal.
5. No submissions were received from the respondents.

## **The background**

6. The property which is the subject of this application is a purpose-built block of 19 self-contained flats.
7. The applicants in their submission to the tribunal report that the front door lock to the building and Entryphone system has failed. The front door lock and Entryphone are connected and dependent on both being fully operational for the door locking mechanism to operate correctly. The defective operation of the lock compromises security of the building.
8. Works quotations for the renewal of the door lock and Entryphone prepared by Entryphone Co Limited and Roy Ricketts, a specialist contractor are submitted to the tribunal in the applicants bundle. The contractors had both confirmed the present system is obsolete and that spare parts cannot be obtained to carry out a repair. The replacement of the mechanism was identified by both contractors as the most cost-effective remedy.
9. Entryphone Co Ltd quote a total cost of £10,116 inclusive of VAT for the Works. Roy Ricketts submitted a quote for £14,250 inclusive of VAT to undertake the Works. The tribunal understand the quote submitted by Entryphone Limited was accepted and the installation commissioned to start 8<sup>th</sup> November 2021.
10. The applicants contend that the renewal was needed urgently for the following reasons:
  - the failed front door locking mechanism compromises the security of the building and residents;
  - The 1985 Act requires a 60-day consultation period to elapse before the works contractors could be confirmed. This would have extended and increased the security risk to the residents; and
  - the applicants envisaged a delivery of the works early January 2022 with statutory consultation period.
11. The tribunal are told the managing agents on 30<sup>th</sup> September 2021 sent all leaseholders a statement advising of the Entryphone failure. On 13<sup>th</sup> October details of the works quotes was circulated with confirmation the least cost quote had been accepted. The leaseholders were then informed of the 20ZA application on 29<sup>th</sup> and 30<sup>th</sup> November 2021.

12. Prior to this determination the tribunal had available a bundle of papers which included the application, the directions, a copy of a report prepared by Entryphone Co Limited and Roy Ricketts contractors. A copy of a specimen lease is also submitted with the application.
13. The only issue for the tribunal to consider is whether 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 determination**

14. The tribunal has considered the papers lodged. There is no objection raised by the respondents, either together or singularly.
15. There is a demonstrated need to carry out the works urgently to reduce the security risk to the residents of uncontrolled entry to the building. It is noted that the 21-year-old door Entryphone system and locking mechanism is obsolete and spare parts are not available to enable a repair.
16. The tribunal cannot identify any prejudice caused to the respondents by the grant of dispensation from the statutory consultation procedure.
17. It is for these reasons the tribunal is satisfied it is appropriate to dispense with the consultation requirements for the remedial works.
18. **This decision does not affect the right of the respondents to challenge the costs, or the standard of work should they so wish.**
19. **In accordance with paragraphs 9 and 10 of the Directions, it is the applicant's responsibility to serve a copy of the tribunal's Decision on all respondent leaseholders to the application.**

Valuer Chairman Ian B Holdsworth

24<sup>th</sup> January 2022

## **Appendix of relevant legislation**

### **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).