



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

Case reference : **LON/00BF/LDC/2022/0203**

HMCTS code (paper, video, audio) : **P: PAPERREMOTE**

Property : **Elles House, Shotfield, Wallington
Surre SM6 0BL**

Applicant : **McCarthy & Stone Retirement
Lifestyles Limited**

Representative : **Yourlife Management Services**

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

Representative : **N/A**

Type of application : **For the dispensation of consultation
pursuant to section 20ZA of the
Landlord and Tenant Act 1985**

Tribunal members : **Judge Tagliavini**

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

Date of decision : **13 February 2023**

DECISION

Summary decision of the tribunal

- (i) **The tribunal grants the application for dispensation from consultation to carry out works of replacement to four compressors serving the subject Property i.e., two compressors in Unit 1 at a cost of £8,541.59 plus VAT and the replacement of two compressors in Unit 3 at a cost of £8,541.59 (plus VAT) totalling £20,499.82 including VAT.**
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The application

1. The Applicant seeks a determination pursuant to s.20ZA of the Landlord and Tenant Act 1985 ('the 1985 Act' due to urgent works being required at Elles House, Shotfield, Wallington, Surrey SM6 0BL ('the Property') and include works to replace two compressors in Unit 1 at a cost of £8,541.59 plus VAT and the replacement of two compressors in Unit 3 at a cost of £8,541.59 (plus VAT) totalling £20,499.82 including VAT
2. The Property comprises a purpose-built block of 58 one- and two-bedroom apartments for an age-restricted community of the over sixties. A full list of resident and non-resident leaseholders was provided to the tribunal with contact details for each and the applicant confirmed in an email dated 19 December 2022 that the lessees had been notified of this application in accordance with the tribunal's directions.

The hearing

3. The determination was carried on the papers provided to the tribunal by the applicant in a bundle of 77 pages, as no party requested an oral hearing.
4. In the application, the applicant stated that a problem with the supply of hot water at Elles House had been reported and was often tepid or cold. A repair was initially carried out but this proved to be unsuccessful in remedying the problem. Further investigations by GP Plumbing identified a number of compressors had burnt out and required replacement.
5. The documents relied upon by the applicant included a copy of the relevant lease, a letter dated 9 June 2002 to the leaseholders notifying them of the urgent works required to remedy the problem of the supply of hot water to the Property and the applicant's intention to make this application to the tribunal. An estimate dated 03/08/2022 from GP

Plumbing and Heating Engineers Limited was also included, which set out the works required and the cost as well as some correspondence indicating the leaseholders wished the work to be completed at an early date. No objections or other correspondence was received the leaseholders.

6. A letter dated 6 December 2022 to the tribunal from the applicant confirmed the required works had been carried out as a matter of urgency due to elderly nature of the leaseholders who might find the lack of heating and hot water particularly detrimental.

The tribunal's decision and reasons

7. In the absence of any objections from the leaseholders to this application and the proposed works and their urgent and essential nature, the tribunal determines that it is reasonable to grant the application for dispensation from consultation to carry out works of replacement to four compressors serving the subject Property;. *Daejan Investments Ltd v Benson & Others* [2013] UKSC 14.
7. In conclusion, the tribunal grants the dispensation sought.

Name: Judge Tagliavini

Date: 13 February 2023

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).