



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

Case reference : **LON/00BK/LDC/2020/0035**

HMCTS Code : **P:Paper remote**

Property : **Montagu Court 27-29 Montagu
Square London W1H 2LG**

Applicant : **Montagu Court Freehold
Limited**

Representative : **Warwick Estates**

Respondent : **The leaseholders at the property
named in the application form**

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

Tribunal members : **Judge Angus Andrew**

Hearing venue : **10 Alfred Place, London WC1E 7LR**

Date of decision : **3 June 2020**

DECISION

Covid-19 pandemic: description of hearing

This has been a remote hearing on the papers which has been consented to by the applicant and not objected to by the respondents. The form of remote hearing was P: PAPER REMOTE. A face-to-face hearing was not held because it was not practicable and no-one requested the same.

The application and determination

1. On 7 February 2020 the applicant applied to the tribunal for dispensation from the consultation requirements provided by section 20 of the Landlord and Tenant Act 1985 in respect of proposed works to the communal boiler system at an estimated cost of £3,904 plus VAT. The applicant consented to the application being determined on the papers alone and without an oral hearing.
2. The tribunal gave directions 10 March 2020. The directions provided for a paper determination unless any of the respondents requested an oral hearing by 20 March 2020. It is apparent that no such request was received by the tribunal.
3. As a result of the Covid-19 Pandemic the applicant was required to submit digital papers by email. Prior to allocation of the case the papers were reviewed by a salaried member who considered that the case was suitable for a paper determination.
4. I was given remote access to those papers that included the application form, the tribunal directions, specimen lease and email correspondence from the applicant's representative. In particular an email of 11 May 2020, which confirms "*that the courts directions have been followed and we have posted out notices and application forms to all leaseholders and placed these in the communal areas*". It is on the basis of the digital papers supplied by the applicant's representative that I find the facts recorded in the following sections of this decision.

Decision

5. For each of the following reasons I dispense with the consultation requirements provided by Section 20 of the Landlord and Tenant Act 1985, in so far as they relate to proposed works to the communal boiler system at an estimated cost of £3,904 plus VAT.

Reasons

6. The works were recommended by engineers following a site inspection.

7. The boilers are not working to their full capacity resulting in a stored communal water temperature of less than 60 degrees. The reduced temperature does not comply with current regulations and could result in an outbreak of Legionella's disease that represents a considerable health and safety risk to the occupiers.
8. The applicant is controlled by the respondents or at least a majority of them and they have a common interest in the work being completed without delay.
9. The applicant has given the respondents notice of its intention to carry out the work and no objections were received.
10. The applicant sent a copy of the tribunal's directions of 10 March 2020 to each respondent and placed a copy in the common parts of the property. The directions requested those respondents who oppose the application to complete a reply form and send it to the tribunal. No completed reply forms have been received by the tribunal.
11. Under the terms of the respondents' leases the applicant as lessor is responsible for maintaining "*all water heating systems.....in good working order*".

Name: Judge Angus Andrew **Date:** 3 June 2020

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).