



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

Case reference : **LON/00AY/LDC/2023/0217**

Property : **1-70 Rusper Court, Clapham Road,
London SW9 9EQ**

Applicant : **The Major and Burgesses of the London
Borough of Lambeth**

Representative : **Homeownership Services: Patrick
Byfield
Ref: HOS/LIT/PBYFIELD/690788**

Respondent : **Various leaseholders as per the
application**

Representative : **N/A**

Type of application : **Application for dispensation from
consultation – section 20ZA of the
Landlord and Tenant Act 1985**

Tribunal member : **Judge Tagliavini**

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

Date of decision : **20 November 2023**

DECISION

Decisions of the tribunal

- (1) The tribunal grants the applicant dispensation from consultation pursuant to section 20ZA of the Landlord and Tenant Act 1985, in respect of the investigative and installation works carried out in the sum of £20,134.39 and included the provision of a temporary boiler providing heating and hot water to the property known as 1-70 Rusper Court, Clapham Road, London, SW9 9EQ.**
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The application and background

1. The Applicant has applied for unconditional retrospective dispensation from the statutory consultation requirements pursuant to section 20 of the Landlord and Tenant Act 1985, in respect of works to investigate the existing boilers and flues servicing the building and to install a temporary boiler to provide heating and hot water. The estimated cost of those temporary works was £20,134.39 and were carried out under a long-term agreement in July 2023.
2. The subject property at 1-70 Rusper Court, Clapham Road, London, SW9 9EQ comprises a purpose-built four-storey block of 70 flats of which 34 are held on long leaseholds ('the Property').
3. The Applicant wrote to the respondent leaseholders on 26th July 2023 explaining why these works were required, what their estimated contribution was expected to be and of this application to the First-tier Tribunal seeking retrospective dispensation from the requirements to consult with leaseholders.
4. The work was said to be urgent because of the risk to the health and safety of residents due to the loss of heating and hot water supply to the Property.

The hearing

5. As neither party requested an oral hearing, the tribunal determined the application on the documents provided. These comprised a hearing bundle of 88 (electronic) pages and included a comment on the application from one leaseholder. No other documents were provided to the tribunal by the respondent leaseholders.
6. In support of the applicant the applicant provided written submissions dated 9 August 2023. These detailed the background to this application and made submissions as to why dispensation from

consultation should be granted and referred the tribunal to *Daejan Investments Ltd v Benson* [2013] UKSC 14.

7. The only response received from a leaseholder stated:

I have received a letter demanding £487.28 as contribution towards the urgent work relating to installation of temporary boiler but I do not use the buildings hot water and heating and have my own boiler in Flat 2 Rusper court.

I will therefore not be paying towards the cost of this.

Reasons for the tribunal's decision

8. In reaching its decision the tribunal has had regard to all of the documentary evidence provided by the parties and is satisfied the respondent leaseholders were made aware of the intended works and of this application for dispensation. The tribunal considers the nature of the works necessitated urgent action on the part of the applicant and that the consequence of not carrying out works outweighed any prejudice that may have been caused to any of the leaseholders by the lack of consultation.
9. However, the tribunal is satisfied that no prejudice to the lack of consultation has been identified by any of the respondents. This application does not concern itself with the cost of the works, or whether they have been properly demanded, as these are matters outside the ambit of this application and can be dealt with by the tribunal on the making of the relevant application.
10. Therefore, in all the circumstances and having considered *Daejan Investments v Benson* [2013] UKSC 14. The tribunal grants the applicant the dispensation sought in respect of the investigative and installation boiler works in the sum of £20,134.39

Name: Judge Tagliavini

Date: 20 November 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).