



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

Case Reference : **LON/00AY/LDC/2023/0256**

Property : **67-69 Saxby Road, London, SW2
4JR**

Applicant : **The Mayor & Burgesses of the LB of
Lambeth**

Representative : **Patrick Byfield**

Respondents : **Long Leaseholder at 67-69 Saxby
Road, London SW2 4JR**

Representative : **None**

Type of Application : **An application under section 20ZA
of the Landlord and Tenant Act
1985 for dispensation from
consultation prior to carrying out
works**

Tribunal Member : **Mr I B Holdsworth FRICS MCI Arb**

**Date and venue of
Hearing** : **Remote hearing held 20 February
2024**

Date of Decision : **20 February 2024**

DECISION

Decisions of the Tribunal

The tribunal determines that retrospective dispensation should be given from the consultation requirements in respect of the works to renew the communal cold water tank and ancillary tank apparatus (referred to as the “**water tank renewal works**”) at 67-69 Saxby Road, London, SW2 4JR as required under s.20ZA of the Landlord and Tenant Act 1985 (“**the Act**”) for the reasons set out below. The total cost of the works is £2,535.95 exclusive of vat.

This application does not concern the issue of whether any service charge costs will be reasonable or payable. The leaseholders will continue to enjoy the protection of Section 27a of the Act.

The tribunal directs the applicant to send a copy of this Decision to the leaseholders and to display a copy in the common parts of the buildings.

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 associated with carrying out necessary and essential water tank renewal works at 67-69 Saxby Road, London, SW2 4JR (the “**property**”).
2. An application was received by the First-tier Tribunal dated 11 October 2023 seeking retrospective dispensation from the consultation requirements. Directions were issued on the 14 November 2023 to the applicant. These Directions required the applicant to advise all respondents of the application and provide them with details of the proposed works including costs.
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 comprises 2 self-contained flats located in a row of two storey buildings.

7. In August 2023, following a survey carried out by the Council's qualifying long-term contractor, OCO Limited the Council was notified that the communal cold-water tank servicing the property was no longer compliant with regulatory requirements, and needed to be renewed to satisfy water regulations.
8. On 13 September 2023, the OCO Limited quoted £2,535.95 exclusive of vat to undertake the following works (referred to collectively as the "**water tank renewal works**"):
 - a) Supply and install walkway/platform around tank.
 - b) Prepare tank room/area for works, make safe, and return to as found.
 - c) Replace tank up to 1048L, installing valves, fittings and associated pipework, drain and remove old tank, and leave new tank filled.
 - d) Installation of new gate valves on services.
 - e) Complete a disinfection of new tank prior to commission.
 - f) Affix labels to newly installed valves/fittings.
 - g) Re-route open vents to drain via a tundish.
 - h) Fit insulation to all new pipe runs using foil-faced man-made mineral fibre.
 - i) To complete a Water Risk Assessment of system on completion of works.
9. Mr Patrick Byfield, the Litigation Officer acting on behalf of the applicants, explains in his Statement of Case that a Notice of Intention to undertake the water tank renewal works was served on the tenants on 19 September 2023. He explained the Council were unable to carryout full consultation due to the urgency of the necessary works.
10. OCO Limited were selected by the Council's to carry out the work. They are engaged by the Council to undertake maintenance on a Long Term Qualifying contract. No alternative quotes were obtained for the work.
11. The applicant contends that the water tank renewal works were urgently needed to reduce the likelihood of an interruption to supply to residents arising from the likely degradation of the tank, leading to tank splitting and consequential leaks.

12. This determination relies upon a bundle of papers which included the application, the Directions, a Statement of Case, a copy of the OCO Ltd quote, justification report and copy of a specimen lease.
16. The only issue for the tribunal to consider is whether it is reasonable to dispense with the statutory consultation requirements in respect of the Tree Works.

This application does not concern the issue of whether any service charge costs are reasonable or payable.

The determination

17. The tribunal has considered the papers lodged. There is no objection raised by the Respondents.
18. There is a demonstrated need to carry out the works urgently to obviate the risk to residents at the property of a contaminated water supply and a possible interruption in supply to the leaseholders bathroom outlets. A prompt start on the works also mitigated the risks of consequential damage to the building from failed or leaking water tanks.
19. It is for these reasons the Tribunal is satisfied it is appropriate to retrospectively dispense with the consultation requirements for the water tank renewal works.
20. **It is the Applicant's responsibility to serve a copy of the Tribunal's decision on all Respondent leaseholders listed on the Application.**
21. **This decision does not affect the right of the Respondents to challenge the costs, payability or the standard of work should they so wish.**

Valuer Chairman: Ian B Holdsworth

Date: 20 February 2024

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 tenant’s 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 considered 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).