



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

**Case reference** : **LON/00AM/LDC/2023/0188**

**Property** : **96 Kingsland Road, London E2 8DP**

**Applicant** : **Trinity Land and Investments no 2 Limited**

**Representative** : **Trinity (Estates) Property Management Company Limited**

**Respondent** : **The residential leaseholders listed on the schedule attached to the application**

**Representative** : **N/A**

**Type of application** : **Dispensation from consultation – section 20ZA of the Landlord & Tenant Act 1985**

**Tribunal members** : **Judge Tagliavini  
Ms S Phillips MRICS**

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

**Date of decision** : **21 November 2023**

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**DECISION**

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## **Decisions of the tribunal**

1. In so far as it may be required, the tribunal grants the applicant dispensation in respect of the additional cost of the works to the replacement of the Automatic Opening Ventilation System in the sum of £1,224 (plus VAT), the work having already been the subject of the section 20 consultation process carried out by the applicant and which appear to have increased in cost only due to the time lapsed between the service of the Notice of Intention and the Statement of Estimates, thereby increasing the original estimate of £3,609.08 (plus VAT) to £4,440.40 (plus VAT) as quoted by Steve Charles Electrical Ltd.
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## **The application**

2. The applicant seeks dispensation in respect of the additional cost of works to replace the Automatic Opening ventilation system at the Building. The applicant asserts it is only seeking dispensation in respect of the additional cost of the works said to amount to £1,224 (plus VAT) and does not seek dispensation in respect of the original estimate of the cost of these works in the sum £3,609.08 (plus VAT) as provided by Steve Charles Electrical Ltd.

## **The background**

3. The subject building at 96 Kingsland Road, London E2 8DP comprises a 5 storey terrace block with 8 purpose built flats over commercial units on the ground floor ('the Building'). The applicant issued a Notice of Intention dated 29 July 2022 with respect to the 'Replacement of AOV (Automatic Opening Vent) ('the AOV') as in a report dated 18 May 2022, the in-house surveyor's report had identified the need for the immediate replacement of the AOV system, rather than a further repair as had previously been carried out. This was followed by a Notice of Estimates dated 15 February 2023 showing the costs of works to range from £3,609.08(plus VAT) to £9,464.00 (plus VAT). However, in the intervening period the cost of the works had increased by £1,224 (plus VAT). Works were carried in July 2023 and the AOV system was replaced by Steve Charles Electrical Ltd in the sum of £4,444.40 (plus VAT) whose price had increased from £3,609.08 (plus VAT) as stated in the Notice of Estimates.

## **The hearing**

4. As neither party requested an oral hearing, the tribunal determined the application on the documents provided. A hearing bundle of 158 electronic pages was supplied by the applicant in support of its

application. The bundle also included the objections received from the leaseholder of Flat 8 who objected to the application on the grounds:

- (i) The works to replace the AOV were not urgent;
- (ii) Delays to works to the AOV system being carried out;
- (iii) Cost of the works;
- (iv) Payability of the cost of the works;
- (v) Compensation due for the applicant's failings and negligence in relation to their obligation to repair and maintain the Building.

### **Reasons for the tribunal's decision**

5. The tribunal reminds the parties this application concerns only the grant or refusal of the grant of dispensation from the consultation process required by section 20 of the Landlord and Tenant Act 1985 ('the 1985 Act'). The tribunal does not determine whether the cost of the works are reasonable and payable by the respondent lessees in this application.
6. As the applicant appears to have consulted on the works to replace the AOV system, it is a little surprising this application has been considered necessary, as it does not appear to concern a wider ambit of works but only the increase in cost, apparently due to the passage of time between the service of Notice of Intention and the Notice of Estimates. Therefore, it would appear that all of the works, to the AOV system that were carried out were already made the subject of consultation.
7. In any event, the tribunal finds the objections raised by the leaseholder of Flat 8 do not demonstrate a substantial prejudice caused by the grant of dispensation to the additional cost of the works on which all of the leaseholders were consulted upon. The tribunal finds the concerns raised by the leaseholder, relate to the delay in carrying out the works and their cost and a request for compensation which do not fall within the tribunal's jurisdiction within this application, nor any issue of compensation.
8. The tribunal accepts the works of replacement to the AOV system were identified to be urgent in May 2022 and the tribunal accepts the applicant's reasoning as to why the consultation process was not restarted.
9. Therefore, in the absence of any substantial prejudice caused by the grant of dispensation in respect of the additional cost of the works and having regard to *Daejan Investments v Benson* [2013] UKSC 14, the tribunal considers it is reasonable and appropriate to grant the dispensation sought. Although the tribunal, considers the works to the AOV had been subject to the consultation including their increased cost.

10. However, the parties may seek the tribunal's determination as to the reasonable and payability of the costs of the works (including the additional costs) to the AOV on the making of the relevant application

**Name:** Judge Tagliavini

**Date:** 21 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).