



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

**Case reference** : **LON/00AJ/LDC/2024/0108**

**HMCTS code (paper, video, audio)** : **P: PAPER REMOTE**

**Property** : **79 Church Road, Acton, W3 8PX**

**Applicant** : **79 Church Road RTM Company Limited**

**Representative** : **Olympus Management (Managing Agent)**

**Respondents** : **The lessees listed in the schedule to the application**

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

**Tribunal Member** : **Judge N Hawkes**

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

**Date of paper determination** : **2 July 2024**

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**DECISION**

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## **PAPER DETERMINATION**

This has been a paper determination which has not been objected to by the parties. The form of remote determination was P:PAPER REMOTE. A face-to-face hearing was not held because it was not practicable and all issues could be determined on the papers. The documents that the Tribunal was referred to are contained in a bundle of 47 pages (including index). The order made is described below.

### **Decision of the Tribunal**

The Tribunal determines, pursuant to section 20ZA of the Landlord and Tenant Act 1985, that it is reasonable to dispense with the statutory consultation requirements in respect of the work which forms the subject matter of the Applicant's application dated 3 April 2024.

### **Background**

1. The Applicant has applied to the Tribunal under S20ZA of the Landlord and Tenant Act 1985 ("the 1985 Act") for dispensation from the consultation requirements contained in section 20 of the 1985 Act in respect of certain qualifying works to 79 Church Road, Acton, W3 8PX ("the Property").
2. The Tribunal has been informed that the Property is a former pub which now comprises 10 apartments.
3. The Applicant has applied for dispensation from the statutory consultation requirements in respect of proposed work concerning the communal electricity supply to the Property. The total estimated cost of the work is in the region of £7,000.00. The application is said to be urgent because there is currently no permanent communal electricity supply.
4. The Applicant's statement in support of the application provides as follows:

*"We write on behalf of the managing agents for the company named above.*

*Application for dispensation was required to reinstate the communal electricity supply to the*

*building which was disconnected following and electrical fault.*

*The building suffered from loss of electricity since March 2024 and resulted in failure of the*

*following fire safety precautions being out of service;*

*• Emergency Lighting*

*• Communal Fire Alarm*

*• Intercom system allowing access into the building.*

*An urgent leaseholder meeting was held to advise of the dispensation application which was*

*not met with any resistance.*

*As directed by the tribunal on 10th May 2024, copies of the application were delivered first class to each leaseholder and displayed within the communal areas of the building.*

*Confirmation was sent to London.Rap@justice.gov.uk on the 23rd May to advise this had been done and the application has also been displayed on the communal notice board within the building on 15th May 2024.  
We confirm that no responses were received.”*

5. The application is dated 3 April 2024 and the Respondent lessees are listed in a schedule to the application.
6. Directions of the Tribunal were issued on 10 May 2024.
7. The Directions included provision that this application would be determined on the papers unless an oral hearing was requested. No application has been made by any party for an oral hearing. This matter has therefore been determined by the Tribunal by way of a paper determination on 2 July 2024.
8. The Tribunal did not consider an inspection of the Property to be necessary or proportionate to the issues in dispute.

### **The Respondents' case**

9. None of the Respondents have submitted a reply form to the Tribunal and/or have made representations to the Tribunal opposing the Applicant's application for dispensation from the statutory consultation requirements.

### **The Tribunal's determination**

10. Section 20 of the 1985 Act provides for the limitation of service charges in the event that statutory consultation requirements are not met.
11. The consultation requirements apply where the works are qualifying works (as is the case in this instance) and only £250 can be recovered from a tenant in respect of such works unless the consultation requirements have either been complied with or dispensed with.
12. The consultation requirements are set out in the Service Charges (Consultation Requirements) (England) Regulations 2003.
13. Section 20ZA of the 1985 Act provides that, where an application is made to the Tribunal for a determination to dispense with all or any of

the consultation requirements in relation to any qualifying works, the Tribunal may make the determination if satisfied that it is reasonable to dispense with the requirements. In determining this application, the Tribunal has considered *Daejan Investments Ltd v Benson* [2013] UKSC 54, [2013] 1 WLR 854.

14. In all the circumstances and having considered:
- a. the Applicant's application;
  - b. the evidence filed in support of the application (including the correspondence sent to the leaseholders); and
  - c. the fact that none of the Respondents has submitted a reply form to the Tribunal and/or has made representations to the Tribunal opposing the Applicant's application for dispensation from the statutory consultation requirements;

the Tribunal determines, pursuant to section 20ZA of the Landlord and Tenant Act 1985, that it is reasonable to dispense with the statutory consultation requirements in respect of the work which forms the subject matter of the Applicant's application dated 3 April 2024. The Tribunal is satisfied on the balance of probabilities that, due to the urgent need to carry out the proposed work, it is not practicable to comply with the statutory consultation requirements in this instance.

- 15. This decision does not concern the issue of whether any service charge costs will be reasonable or payable.**

Judge N Hawkes

Date: 2 July 2024

### **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).