



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

Case reference : **LON/00AW/LDC/2019/0211**

Property : **43 – 57 Onslow Square London
SW7 3LR**

Applicant : **The Wellcome Trust Limited**

Representative : **Savills UK Limited**

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

Representative : **-**

Type of application : **To dispense with the consultation
requirements under S.20 Landlord
and Tenant Act 1985**

Tribunal member(s) : **Mrs E Flint FRICS**

**Date and venue of
determination** : **15 January 2020
10 Alfred Place London WC1E 7LR**

DECISION

Decision of the tribunal

- (1) The Tribunal grants dispensation from all the consultation requirements under S.20 of the Landlord and Tenant Act 1985 in relation to the roof survey, repairs and associated costs.

The Background

1. The application under section 20ZA of the Landlord and Tenant Act 1985 (“the Act”) was made by Savills UK Ltd on behalf of the Applicants on 2nd December 2019.
2. The application concerned the steps necessary to identify the works required to prevent further water ingress into the building and make good the damage to the top floor flats.
3. Directions were issued on 11 December 2019 requiring the applicant to prepare bundles by 10 January 2020 to include statements
 - (i) Setting out the full grounds for the application, including all the documents on which the landlord relies and copies of any replies from the tenants;
 - (ii) The Leaseholders were asked to confirm by 23rd December 2019 whether or not they would give their consent to the application.
 - (iii) In the event that such agreement was not forthcoming the leaseholders were to state why they opposed the application; and provide copies of all documents to be relied upon.
4. No responses were received from the leaseholders.
5. The lessees were informed in the Directions issued by the Tribunal that the question of reasonableness of the works or cost was not included in this application, the sole purpose of which is to seek dispensation.

The Evidence

6. The property comprises a building built in the early 1900’s and converted to 27 flats over 6 storeys.
7. By paragraph 4.2 of the leases, the Applicant has covenanted as follows:

To maintain and keep in good and substantial repair and condition:

(i) The main structure of the Building including the principal internal timbers and the exterior walls and the foundations and the roof

8. The Applicant stated that on 24 September 2019 the property Housekeeper reported that following heavy rainfall there had been significant water ingress into Flat 5 55 Onslow Square which had resulted in the living room ceiling collapsing. Leaks elsewhere in the property were also reported including to Flat 4, 43 Onslow Square.
9. A surveyor was appointed to ascertain the cause of the water ingress as other leaks had been reported previously. Scaffolding was required and quotations obtained for the works.
10. A notice of intention to carry out the works was served on 24 October 2019 and the Leaseholders were advised at the same time that an application for dispensation under section 20ZA was to be made. No observations and/or nominations of contractors have been received.
11. Woodgrove Contractors were working on a neighbouring building and could commence work the soonest. They submitted their initial quotation on 1st November in the sum of £22,316.00 + VAT. Scaffolding was erected on 4 December and a final schedule of works was agreed with a total cost of £18,933.00 +VAT on 12 December 2019.
12. Full works commenced on 6 January 2020, overseen by Savills Building Consultancy.
13. The applicant states that dispensation is sought due to the urgency to undertake the works to avoid further damage to the affected flats and before the weather gets wetter and colder.

The Decision

14. The relevant test to be applied in an application for dispensation was set out by the Supreme Court in *Daejan Investments Ltd v Benson & Ors* [2013] UKSC 14 where it was held that the purpose of the section 20 consultation procedure was to protect tenants from paying for inappropriate works or paying an inappropriate amount. Dispensation should not result in prejudice to the tenant.
15. The Tribunal determines from the evidence before it that the works were necessary, were required to be completed as soon as possible to

reduce the risk of further damage to the building and comply with the landlord's covenants within the leases.

16. On the evidence before it, and in these circumstances, the Tribunal determines that the application for dispensation be granted.

Name: Evelyn Flint

Date: 15 January 2020

ANNEX - RIGHTS OF APPEAL

- i. 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.
- ii. 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.
- iii. 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.
- iv. 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.