



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

**Case Reference:** LON/00AW/LDC/2023/0149 P

**HMCTS code:** P: PAPERREMOTE

**Property:** 44-46 Egerton Gardens, London SW3  
2BS

**Applicant:** The Wellcome Trust

**Representative :** Savills (UK) Ltd (Lauren Coombes)

**Respondents:** The leaseholders of 44-46 Egerton  
Gardens

**Type of  
Application:** To dispense with the statutory  
consultation requirements under  
section 20ZA Landlord and Tenant Act  
1985

**Tribunal  
members:** Judge Pittaway

**Date of decision:** 26 September 2023

## **DECISION**

### **Description of hearing**

This has been a remote hearing on the papers which has been consented to by the Applicant and not objected to by any Respondent. The form of remote hearing was P:PAPERREMOTE. A face-to-face hearing was not held because no-one requested a hearing and all issues could be determined on paper.

The documents to which the Tribunal was referred in a bundle of 58 pages which included a copy of the application dated 6 June 2023, the Directions dated 12 July 2023, and a copy of the lease of Flat 9, 46 Egerton Gardens and a witness statement from Ms Lauren Coombes.

The Tribunal has had regard to the documents before it in reaching its decision set out below.

## **DECISION**

**The Tribunal grants the application for dispensation from statutory consultation in respect of the subject works ('the works'), namely the replacement of a specialist part within the lift.**

**This decision does not affect the Tribunal's jurisdiction upon any future application to make a determination under section 27A of the Act in respect of liability to pay, for a reason other than non-consultation in respect of the subject works, and the reasonableness and/or the cost of the subject works.**

### **The Application**

1. The Applicant seeks a determination pursuant to section 20ZA of the Landlord and Tenant Act 1985 (the 'Act') for dispensation from consultation in respect of the works to the Property, namely the replacement of a specialist part within the lift which had failed.
2. The application costed the works at £2,067.60 (including VAT). The Service Charges (Consultation Requirements) Regulations 2003 provide that consultation requirements are triggered if it is planned to carry out qualifying works which would result in the contribution of any tenant being more than £250. Ms Coombes confirmed that some of the tenants would be required to contribute more than £250 to the cost of the works.

3. By directions dated 12 July 2023 (the ‘**directions**’) the Tribunal directed that the Applicant by 28 July 2023 send each leaseholder and any residential sublessees the application and the directions and display a copy in a prominent place in the common parts of the property. The applicant confirmed to the Tribunal on 18 July 2023 that copies had been e mailed to the tenants that day.
4. The directions provided that if any leaseholder/sublessee objected to the application he/she should do so, to the Applicant and the Tribunal, by 14 August 2023. The Tribunal received no objections. Ms Coombes confirmed to the Tribunal that the Applicant had received no objections.
5. The directions provided that the Tribunal would decide the matter on the basis of written representations unless any party requested a hearing. No one did.

### **The Applicant’s case**

6. Ms Coombes stated that the property consists of ten flats within 46 Egerton Gardens and one standalone property at 44 Egerton Gardens.
7. Savills was notified by the regular lift maintenance contractor, We Maintain, that a specialist part within the lift had failed and the lift therefore had to be put out of service. We Maintain quoted £2067.60 inclusive of VAT to replace the part. No other quotes were obtained as We Maintain are the appointed lift maintenance contractor for the Property.
8. The quote was approved by the Applicant so that the work could be undertaken immediately to ensure that the lift was returned to working order.
9. Because of the urgency the Applicant was unable to consult the tenants before the work was carried out. Ms Coombes states that the tenants have been kept full informed on the issue and how it was being dealt with.

### **Responses from the Respondents**

10. The directions provided that if any leaseholder/sublessee objected to the application he/she should do so, to the Applicant and the Tribunal, by 14 August 2023.
11. Neither the Applicant nor the Tribunal received any objections.

## **Determination and Reasons**

12. Section 20ZA(1) of the Act provides:

*“Where an application is made to a leasehold valuation tribunal for a determination to dispense with all or any of the consultation requirements in relation to any qualifying works or qualifying long term agreement, the tribunal may make the determination if satisfied that it is reasonable to dispense with the requirements.”*

13. The purpose of section 20ZA is to permit dispensation with the consultation requirements of section 20 of the Act if the Tribunal is satisfied that it is reasonable for them to be dispensed with.

14. The Tribunal determines that the Respondents are not prejudiced by the works and it is reasonable to dispense with the consultation requirements.

15. In reaching its decision the Tribunal has considered the decision in *Daejan Investments Ltd v Benson and others* [2013] UKSC 14, and has had regard to the application and the documents provided, in particular

- the evidence of the consultation which the Applicant has undertaken with the Respondents,
- that no objection has been received from any Respondent, and
- the stated need for the works.

16. Whether or not the Respondents are liable for the cost of the works by reason of the terms of their leases, any statutory provision other than section 20ZA, and whether the works are carried out to a reasonable standard and at a reasonable cost are not matters which fall within the jurisdiction of the Tribunal in relation to this present application. This decision does not affect the Tribunal’s jurisdiction upon any future application to make a determination under section 27A of the Act in respect of liability to pay and the reasonableness and /or cost of the works.

17. The Applicant is reminded that, as stated in the Directions, it is the responsibility of the Applicant to serve a copy of this decision on all Respondents.

Name: Judge Pittaway Date: 26 September 2023

## **ANNEX - RIGHTS OF APPEAL**

1. 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.
  
2. 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.
  
3. 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.
  
4. 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.