



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

Case Reference : **LON/00AW/LDC/2023/0110**

Property : **34-36 Egerton Gardens London SW3
2DB**

Applicant : **The Wellcome Trust**

Representative : **Savills (UK) Ltd**

Respondents : **All leaseholders at 34-36 Egerton
Gardens London SW3 2DB.**

Representative : **Not represented**

Type of Application : **For dispensation from the consultation
requirements under section 20ZA
Landlord & Tenant Act 1985**

Tribunal : **Mr R Waterhouse BSc (Hons) LLM
Property Law MA FRICS**

Date of Decision : **26th September 2023**

DECISION

This has been a remote paper determination, which has been consented to by the parties. A face-to-face hearing was not held because it was not practicable, and no one requested same.

The documents the Tribunal were referred to were in a bundle of some 60 pages.

Decision

The tribunal determines that dispensation should be granted from the consultation requirements from section 20ZA of the Landlord and Tenant Act 1985 (the Act) in respect of the property 34-36 Egerton Gardens London SW3 2DB.

The application

1. This Application is made by the freeholder The Wellcome Trust Ltd, dated 14th April 2023.
2. The Application seeks dispensation from the consultation requirements under section 20ZA of the Landlord and Tenant Act 1985.
3. The Application is concerned solely with the question of what consultation if any should be given of the consultation requirements of section 20 of the 1985 for works costing in excess of £250 per flat. It is not concerned with the reasonableness or payability of any service charges which may arise.

The determination

4. A written Application was made by the freeholder The Wellcome Trust. The case was decided on paper and no appearances were made. The tribunal considered the written bundle of 60 pages, in support of the Application.

Background

5. The property comprises; “a masonry/brick building. Consisting of residential flats, named A-V”.
6. The Applicant in this case is the freeholder of the property.
7. This Application has been issued because, as per the application form at”
Grounds for Seeking Dispensation”
8. “urgent works are required to be undertaken to prevent current water ingress into 2 properties”
9. A building consultant/surveyor attended the site with a roofing contractor to discuss what was needed to be done straight away to prevent damage to the property further. One of the two flats affected has needed to remove their bedroom ceiling due to the water damage. Long term, a full roof replacement is required however these works have been suggested as a

- short-term fix to resolve the issues whilst long term works are saved for and will be around 3-5 years.
10. Total costs including VAT were indicated at £25,995.50.
 11. “No consultation has been carried out due to the urgency of needing these works to be undertaken. Quotes were obtained and the cheaper of the two was instructed to be undertaken on 14th April.”
 12. “We did not undertake the usual section 20 consultation process. The properties being affected by the water ingress from the damaged roof could not wait for section 20 process to be completed. Works have to be done urgently to fix the issue.”
 13. The Directions dated 10th July 2023, provided for the Applicant to send to the leaseholders and any sub lessees and any recognised residents associations, a copy of the application form, a brief explanation of why the application has been made and a copy of the directions, by 21st July 2023.
 14. The Directions also note that any leaseholder who opposes the Application should by the 24th July 2023 complete the reply form and return it to the tribunal. Any leaseholders who oppose the application shall by 7th August complete a reply form and email it to the applicant and the tribunal.
 15. There is confirmation the Directions have been complied with by virtue of e mail dated 11th July 2023 from Savills, and that no evidence of opposition from any leaseholder.
 16. The only issue for the tribunal is whether or not it is reasonable to dispense with the statutory consultation requirements of section 20 of the 1985 Act. This application does not concern the issue of whether any service charge costs will be reasonable or payable.

Documents

17. The Bundle comprises the application form, directions, an e mail to leaseholders providing them with a copy of the application and directions, and an example of lease.

The tribunal’s decision

18. The tribunal does grant dispensation under section 20 ZA of the Landlord and Tenant Act 1985 and the Service Charges (Consultation) (England) 2003 for the works set out in the application.

19. We are, aware of the judgment in Daejan Investments Limited v Benson and others [2013] UKSC 14. The application for dispensation is not challenged.
20. The Supreme Court (Lord Neuberger at para 50) accepted that there must be real prejudice to the tenants. Indeed, the Respondents do not oppose the application. It is accepted that we have the power to grant dispensation on such terms as we think fit. However, the Landlord is entitled to decide the identity of the contractors who carry out the work, when they are done, by whom and the amount. The safety net for the Respondents is to be found in sections 19 and 27A of the Landlord and Tenant Act 1985.
21. The tribunal finds that the work is of an urgent nature and accordingly, find that dispensation should be granted.

Richard Waterhouse

Name: Richard Waterhouse LLM FRICS 26th 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 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 to 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 (ie 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**