



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

**Case reference** : **LON/00AW/LDC/2022/0218**

**Landlord  
/Applicant** : **The Welcome Trust Ltd C/O Savills**

**Property** : **105 Old Brompton Road SW7 3LE (“the  
subject property”)**

**Representative** : **Savills (Ref: Paige Bonta)**

**Tenants/  
Respondents** : **Natasha Courage and Christian Simond  
(First Floor Flat)  
Roberto Cattani and E Cosulich (Fourth  
Floor Flat)  
Mr R and Mrs Teresa Stancati Roessel  
(Second Floor Flat)  
Abnash Singh Grewal (Third floor flat)  
105 Brompton Road**

**Representatives** : **None**

**Type of Application** : **Dispensation from consultation  
requirements under section 20ZA of the  
Landlord and Tenant Act 1985**

**Tribunal** : **Mr Charles Norman FRICS**

**Date of Decision** : **21 October 2023**

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**DECISION**

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## **Decision**

1. Dispensation in respect of costs of scaffolding to access the rear of the property and remedying a water leak to Flat 3 is **GRANTED UNCONDITIONALLY**.

## **Reasons**

### **Background**

2. On 11 November 2022 the landlord/applicant applied for dispensation from the statutory consultation requirements in respect of costs of scaffolding to access and remedy a leak into flat 3 at the rear of the building. This was said to be urgent. The estimated costs were £7,380 for the scaffolding plus repair costs of £980 and £1280, all excluding VAT. The building is said to be an early 1900s mid terraced building with no rear access. There is a ground floor commercial unit with ten flats above. The total cost attributable to the rear leak were said to be £4,854.49. The works have been completed.
3. On 28 April 2023, the Tribunal set the case down for determination by written representations unless any party objected, which none did. The landlord/applicant was directed to serve the application on the tenants/respondents and give publicity within the common parts of the property. This was confirmed by email. The tenants/respondents were invited to serve objections if they so wished, using a proforma form appended to the directions. The directions were amended on 13 June and 4 July 2023.

### **The Landlords/Applicants' Case**

4. The works were required urgently to remedy water ingress to Flat 3 which was adversely affecting living conditions. The work required scaffolding. Contractors attended and there were two leaks into the property. One of the leaks which affected the back bedroom could be accessed via Flat 4; the repair cost for this was £980 plus VAT. The leak to the front bedroom required scaffolding. The scaffolding costs were £7,380 plus VAT and the repair works were £1,280 plus VAT. There were various tests that needed to be carried out to ensure the gutter was clear.

### **The Tenants/Respondents' case**

5. None of the tenants/respondents responded to the application.

### **The Law**

6. Section 20ZA is set out in the appendix to this decision. The Tribunal has discretion to grant dispensation when it considers it reasonable to do so. In addition, the Supreme Court Judgment in *Daejan Investments Limited v Benson and Others* [2013] UKSC 14 empowers the Tribunal to grant dispensation on terms or subject to conditions.

## **Findings**

7. The Tribunal was concerned that the applicants' statement was dated 7 August 2023 when it should have been served by 11 July 2023, to enable the respondents to reply by 25 July 2023. It was also concerned that no evidence of service of documents and display in common parts as required by Direction 1 had been supplied in the bundle. Consequently the chairman caused a letter to be sent to the applicants to address these matters. On 8 September 2023 the tribunal received an email from the applicants, from which the tribunal is satisfied that the respondents had seen the applicants' statement and been served with notice of the application.
8. The Tribunal finds that the requisite works were urgent, and that the landlord/applicant has acted reasonably in dealing with this matter. It notes that that none of the tenants/respondents have objected to the application.
9. **However, this decision has no bearing on the question of the reasonableness of costs to be incurred or their payability. The Tribunal makes no findings in relation to those matters.**
10. **This decision has no effect on the ground floor commercial tenant as commercial premises are outside the scope of the consultation requirements and the tenant is not a party.**

Mr Charles Norman FRICS  
Valuer Chairman

21 October 2023

### **ANNEX - RIGHTS OF APPEAL**

- The Tribunal is required to set out rights of appeal against its decisions by virtue of the rule 36 (2)(c) of the Tribunal Procedure (First-tier Tribunal)(Property Chamber) Rules 2013 and these are set out below.
- If a party wishes to appeal against 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.

## Appendix

### Section 20ZA Landlord and Tenant Act 1985

(1) Where an application is made to [the appropriate 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.

(2) In section 20 and this section—

“qualifying works” means works on a building or any other premises, and

“qualifying long term agreement” means (subject to subsection (3)) an agreement entered into, by or on behalf of the landlord or a superior landlord, for a term of more than twelve months.

(3) The Secretary of State may by regulations provide that an agreement is not a qualifying long term agreement—

- (a) if it is an agreement of a description prescribed by the regulations, or
- (b) in any circumstances so prescribed.

(4) In section 20 and this section “the consultation requirements” means requirements prescribed by regulations made by the Secretary of State.

(5) Regulations under subsection (4) may in particular include provision requiring the landlord—

- (a) to provide details of proposed works or agreements to tenants or the recognised tenants’ association representing them,
- (b) to obtain estimates for proposed works or agreements,
- (c) to invite tenants or the recognised tenants’ association to propose the names of persons from whom the landlord should try to obtain other estimates,
- (d) to have regard to observations made by tenants or the recognised tenants’ association in relation to proposed works or agreements and estimates, and
- (e) to give reasons in prescribed circumstances for carrying out works or entering into agreements.

(6) Regulations under section 20 or this section—

(a) may make provision generally or only in relation to specific cases, and

(b) may make different provision for different purposes.

(7) Regulations under section 20 or this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.