



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

Case Reference : **LON/00AW/LDC/2023/0223**

Property : **28-42 Onslow Square London SW7 3NS**

Applicant : **The Wellcome Trust**

Representative : **Savills (UK) Ltd**

Respondents : **Various Leaseholders of Onslow
Square, London, SW7 3NS**

Representative : **In person**

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 -On Papers**

Date of Decision : **21st November 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 98 pages.

Decision

- (1) 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; 28-42 Onslow Square, London, SW7 3NS**

The application

1. This Application is made by Savills (UK) as agent to the freeholder, The Wellcome Trust dated 30th August 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 agent for the freeholder The Wellcome Trust. The case was decided on paper and no appearances were made. The tribunal considered the written bundle of 98 pages, in support of the Application.

Background

5. The property, 28-42 Onslow Square London SW7 3NS, is a masonry/brick building consisting of 20 residential flats.
6. The applicant in this case is the freeholder of the property.
7. This application has been issued because, following the identification of asbestos in the basement, works to remove were considered urgent and undertaken without consultation.
8. The Application form notes under grounds for seeking dispensation, that the works included;

“Project Management, inspection and associated air monitoring procedures included with the following asbestos work:

Basement Areas

Environmental clean and encapsulation of asbestos cement debris from vent opening to B.005 boiler room under controlled conditions and fire check foam hole on completion.

Environmental clean and encapsulation of asbestos insulation debris found to pipe penetration to B.005 boiler room under controlled conditions and fire check foam on completion.

Calico tape and encapsulation of high – level pipework found to B.003 corridor and B.004 storeroom under controlled conditions.

Removal of valve from boiler room with asbestos gasket residues to flange joints under controlled conditions.

Works cost £3,100 ex VAT.

9. The Directions dated 27th September 2023 provided for the freeholder to give a copy of the Application, to each leaseholder, a brief statement to explain the reasons for the Application if not already done so and display a copy of the directions in a prominent place in the common parts of the property, by 11th October 2023. The freeholder should confirm with the tribunal by the 14th October 2023 that this has been done. This was confirmed done by e mail dated 11th October 2023 from Kate Robinson of Ringley Chartered Surveyors acting as managing agents on behalf of the Freeholder.
10. The Directions also note that any leaseholder who opposes the application should by the 25th October 2023 complete the reply form and return it to the tribunal. The tribunal has received no such correspondence has been received.
11. 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

12. The applicant has submitted an application form, and e mail of the 11th October 2023 confirming that all leaseholders have received a copy of the application form and the directions.

The tribunal's decision

13. 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.
14. We are, aware of the judgment in Daejan Investments Limited v Benson and others [2013] UKSC 14. The application for dispensation is not challenged.
15. 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.
16. Accordingly, we find that dispensation should be granted.

Richard Waterhouse

**Name: Richard
Waterhouse LLM
FRICS**

23rd November 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**