



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

Case Reference : **LON/00AW/LDC/2023/0151**

Property : **1-7 Onslow Gardens, London, SW7
3NJ**

Applicant : **The Wellcome Trust Limited,
represented by Ringley Ltd**

Respondents : **The leaseholders listed in the
application**

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

Tribunal Members : **Judge Professor R Percival**

Venue : **Remote paper determination**

Date of Decision : **16 January 2024**

DECISION

Decisions of the tribunal

- (1) The Tribunal, pursuant to section 20ZA of the Landlord and Tenant Act 1985 (“the 1985 Act”), grants dispensation from the consultation requirements in respect of the works the subject of the application.

Procedural

1. The landlord submitted an application for retrospective dispensation from the consultation requirements in section 20 of the Landlord and Tenant Act 1985 (“the 1985 Act”) and the regulations thereunder, dated 3 May 2023.
2. The Tribunal gave directions on 13 July 2023, which were subsequently amended on 12 September 2023 and again on 2 November 2023. The directions provided for a form to be distributed to those who pay the service charge to allow them to object to or agree with the application, and, if objecting, to provide such further material as they sought to rely on. The application and directions was required to be sent to the leaseholders and any sublessees, and to be displayed as a notice in the common parts of the property. The deadline for return of the forms, as amended, to the Applicant and the Tribunal, was 10 October 2023.
3. The Applicant confirmed that the relevant documentation had been sent to the leaseholders and displayed as required.
4. No response from any of the leaseholders has been received by the Tribunal.

The property and the works

5. The property is an early twentieth century house converted into ten flats.
6. The works were supervised by the previous managing agents (Savills). The witness statement now in the bundle was sworn on 14 November 2023 by a property manager with the subsequently appointed managing agents, Ringley Limited. The determination bundle does not provide a very clear account of the works. However, it seems clear that they relate to asbestos removal from two sites within the building, the plant room and the basement. The presence of asbestos in the plant room was preventing maintenance of the boiler, and was, it is suggested, urgent. The works in the basement were undertaken at the same time, in appears to reduce costs. It is not clear that the basement works were themselves urgent (they appear to have been connected to the development of an additional flat).

7. The bundle includes estimates for the cost of the works made before the works were undertaken (following some adjustments). The total is £42,077. I assume that the outturn cost was the same.

Determination

8. The relevant statutory provisions are sections 20 and 20ZA of the Landlord and Tenant Act 1983, and the Service Charges (Consultation etc)(England) Regulations 2003. They may be consulted at the following URLs respectively:

<https://www.legislation.gov.uk/ukpga/1985/70>

<https://www.legislation.gov.uk/uksi/2003/1987/contents/made>

9. The Tribunal is concerned solely with an application under section 20ZA of the 1985 Act to dispense with the consultation requirements under section 20 and the regulations.
10. The claim for urgency in relation to the works to the plant room is clearly well made. I assume from the silence of the bundle on the issue, there was no immediate requirement for maintenance in the plant room. But once it was apparent that the presence of asbestos meant that the boiler could not be maintained, it was incumbent upon the landlord to ensure that maintenance could be carried out should it be necessary. It is obvious that the failure of a boiler could give rise to the need for urgent repairs.
11. It is not clear that the works in the basement were similarly urgent in themselves. But it appears to be a rational decision to bundle the work together with that in the plant room for cost reasons, and would be to the benefit of the leaseholders.
12. No response been received from any of the leaseholders objecting to the application. It is therefore clear that the leaseholders have not sought to claim any prejudice as a result of the consultation requirements not having been satisfied. Where that is the case, the Tribunal must, quite apart from any question of urgency, allow the application: *Daejan Investments Ltd v Benson and others* [2013] UKSC 14, [2013] 1 WLR 854.
13. This application relates solely to the granting of dispensation. If the leaseholders consider the cost of the works to be excessive or the quality of the workmanship poor, or if costs sought to be recovered through the service charge are otherwise not reasonably incurred, then it is open to them to apply to the Tribunal for a determination of those issues under section 27A of the Landlord and Tenant Act 1985.

Rights of appeal

14. 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 London regional office.
15. The application for permission to appeal must arrive at the office within 28 days after the Tribunal sends written reasons for the decision to the person making the application.
16. If the application is not made within the 28 day time limit, the 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 these reason(s) and decide whether to allow the application for permission to appeal to proceed despite not being within the time limit.
17. The application for permission to appeal must identify the decision of the Tribunal to which it relates, 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.

Name: Judge Prof Richard Percival **Date:** 16 January 2024