



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

Case reference : **LON/00AW/LDC/2023/0046**

Property : **44-54 Onslow Square, London, SW7
3NX**

Applicant : **The Wellcome Trust Limited**

Representative : **Savills**

Respondents : **The Leaseholders of the Property**

Type of application : **For dispensation from statutory
consultation**

**Tribunal
member(s)** : **Mr O Dowty MRICS**

**Date of
determination** : **24 January 2024**

DECISION

Decision of the Tribunal

The Tribunal grants the application for dispensation from statutory consultation in respect of the qualifying works.

The application

1. The applicant is the freeholder of the subject premises 44-54 Onslow Square, London, SW7 3NX. The property consists of an early 1900's masonry/brick built building which has been converted into 14 flats.
2. The application, dated 6 March 2023, seeks a determination pursuant to section 20ZA of the Landlord and Tenant Act 1985 ("The Act") dispensing with statutory consultation in respect of qualifying works. At the time of that application, those works had either been carried out or started.
3. Directions were issued by the Tribunal on 30 May 2023. Due to the applicant's not being able to demonstrate compliance with one of those Directions, further Directions were issued by the Tribunal on 9 August 2023. Those Directions provided that the applicant was to provide copies of the application form, a brief statement of the reasons for the application (if not already provided in the application form), and the Tribunal's Directions. In addition, the applicant was to display a copy of the Directions in the common parts. The applicant emailed the Tribunal on 9 August 2023 to confirm that the required correspondence had been sent to the leaseholders, and that a copy of the Tribunal's Directions would be displayed in the common parts by 11 August 2023.
4. The Directions of 9 August 2023 invited any leaseholders and sublessees who opposed the application to make submissions by 1 September 2023. No such submissions have been received by the Tribunal and the applicant has confirmed to the Tribunal that they are unaware of the there having been objections otherwise.
5. The Tribunal considered that a paper determination of the application was appropriate, and the applicant indicated that they were content for this to happen in their application. The Tribunal therefore determined the matter on the basis of the papers provided to it without a hearing.
6. The Tribunal did not inspect the subject property as it was not necessary to do so to determine the present application.

The Qualifying Works

7. The applicant avers that they were informed of positive legionella test results at the property, and provides an email and legionella risk assessment from Tetra Consulting Ltd in support of this.
8. The applicant had already cleaned the system to remove the legionella prior to making their application, and instead applied for the Tribunal's dispensation to carry out "tank works and amendment of associated plumbing to ensure the water is better circulated and HWS vent pipework is pipework [sic] is run into a newly installed tundish". This would cost £8,901.80 + VAT, and was urgently needed to prevent a recurrence of legionella at the property.
9. The applicant provided two quotations from Hydrocert regarding these works. The first, to a total of £5,569 + VAT was for "Replacement of the antiquated and heavily corroded Tank above Flat 6. Remedial Improvements to the current plumbing, also included". The second, to a total of £3,332.80 + VAT was for "decommissioning & Remedial Plumbing Works" to the cold water storage at Flat 8.
10. The applicant did not carry out any consultation, as they believed the works were too urgently needed to allow for this. Nevertheless, the applicant details in their bundle various communications they sent to leaseholders regarding the works.

Decision and Reasons

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

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.

12. The applicant's case, in essence, is that the works were required to prevent the recurrence of legionella at the property. The applicant has provided a report concerning legionella, and quotations for the works required.
13. These works were too urgent, the applicant avers, to allow for a consultation to be carried out.

14. The Tribunal has not received submissions from any leaseholders or other interested parties objecting to the application or its contents and the applicant has confirmed they have not received any such objections either.
15. On the balance of evidence provided to the Tribunal, the Tribunal finds that it was appropriate to carry out the qualifying works without carrying out statutory consultation. Legionella is a serious issue, and the Tribunal agrees that carrying out works to prevent its recurrence at the property once detected is an urgent matter.
16. The Tribunal therefore considers it reasonable to grant the application for dispensation from statutory consultation. No conditions on the grant of dispensation are appropriate and none are made.
17. This decision does not affect the Tribunal's jurisdiction upon an application to make a determination under section 27A of the Act in respect of the reasonable and payable costs of the works, should this be disputed by any leaseholder.

Name: Mr O Dowty MRICS

Date: 24 January 2024

Rights of appeal

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the tribunal is required to notify the parties about any right of appeal they may have.

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.

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.

If the tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).