FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case reference	**:**	**LON/00AW/LDC/2024/0039**
Property	**:**	**2-10 Onslow Mews East, Kensington, London, SW7 3AA**
Applicant	**:**	**The Wellcome Trust**
Representative	**:**	**Ringley Law LLP (Lee Harle)**
Respondents	**:**	**Withers Trust Corporation Ltd (No.2)** **B J Hintz Esq (No.4)** **McKay Estate LLP (No.6)** **Alexander Scandrett Harford and Carina Frances Harford (No.8)** **Mr & Mrs Assant (No.10)**
Type of application	**:**	**Dispensation with Consultation Requirements under section 20ZA Landlord and Tenant Act 1985**
Tribunal member	**:**	**Judge Robert Latham**
Venue	**:**	**10 Alfred Place, London WC1E 7LR**
Date of decision	**:**	**8 May 2024**

DECISION

The Tribunal grants this application to dispense retrospectively with the consultation requirements imposed by section 20 of the Landlord and Tenant Act 1985 in respect of urgent works to repair the car park entrance barrier on condition that none of the costs relating to this application be passed on to the leaseholders through the service charge.

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The Application

1. On 12 February 2024, the Applicant applied for retrospective dispensation from the statutory duty to consult imposed by section 20 of the Landlord and Tenant Act 1985 ("the Act") in respect of urgent works to repair the car park entrance barrier at 2-10 Onslow Mews East, Kensington, London, SW7 3AA (described in the lease as the "Development"). The Development consists of five mews houses.

2. The Development has a private roadway including garages and parking. On 28 September 2023, Ringley Chartered Surveyors ("Ringleys") took over the management of the Development from Savills (UK) Limited. The Applicant seeks dispensation from the statutory consultation procedures in respect of urgent works carried out by PES Southern Limited on 27 November 2023, at a cost of £838, including VAT.

3. Ringleys state that during a site visit, a parking barrier was found to be vandalised. They considered repair works to be urgent. These included the replacement of the illuminated barrier arm, the attachment bracket and the attachment bracket cover. Without these repairs, there could have been potential vulnerabilities that could compromise the security of the residents. Ringleys seek to prioritise such repairs to maintain a safe and secure environment.

4. On 26 February 2024, the Tribunal issued Directions which were emailed to the parties. The Directions stated that the Tribunal would determine the application on the papers, unless any party requested an oral hearing. No party has done so.

5. By 18 March 2024, any leaseholder who opposed the application was directed to complete a Reply Form which was attached to the Directions and send it both to the Tribunal and to the Applicant. The leaseholder was further directed to send the Applicant a statement in response to the application. No leaseholder has returned a completed Reply Form opposing the application.

6. On 12 April 2024, the Applicant provided a Bundle of Documents (70 pages) in support of the application. It has also provided a copy of the lease for 2 Onslow Mews East.

7. The statutory duty to consult imposed by section 20 of the Act only arises if the relevant contribution of any leaseholder in respect of any qualifying works exceeds £250. When this Tribunal first considered this case, it was apparent that the cost of the works was £838. The application involves the tenants of five Mews houses all of which seemed to be similar in size. It therefore seemed unlikely that any leaseholder would be expected to pay more than £250 towards the cost of the works.

8. On 24 April 2024, the Tribunal wrote to the Applicant seeking clarification on this point. In particular, the Applicant was asked to confirm how the cost of the works would be apportioned between the five leaseholders. Would any leaseholder be required to pay £250 or more?

9. On 30 April 2024, Ringley Law responded as follows:

> "I have confirmed with the client and they have confirmed that they are in fact contributing 51% of the service charge in a single demand and as such they need to undertake the S20 procedure. The next highest contributor would have been only 10% but the client wishes to proceed."

10. This Tribunal does not understand this response. The Act imposes no obligation on a landlord to consult with itself when its contribution will exceed £250. The Act is rather intended to protect leaseholder from paying for unreasonable service charges.

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 only issue which this Tribunal is required to determine is whether or not it is reasonable to dispense with the statutory consultation requirements. This application does not concern the issue of whether any service charge costs will be reasonable or payable.

13. To avoid any further cost, the Tribunal is willing to grant dispensation as sought by the Applicant. However, it sees no practical purpose in this application. It therefore makes it a condition of dispensation that none of the costs relating to this application should be passed on to the leaseholders.

14. The Tribunal has determined this application on the papers. If any party affected by this decision wishes to make any representations, they may do so by emailing such representations to the tribunal and to the other parties by no later than 16.00 on 24 May 2024.

Judge Robert Latham
8 May 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 **by e-mail** 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).