



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

**Case Reference** : LON/00AW/LDC/2018/0187

**Property** : 15 – 17 Cranley Gardens SW7 3BD

**Applicant** : The Wellcome Trust

**Representative** : Savills (UK) Ltd

**Respondent** : ALL LESSEES AS PER APPLICATION

**Representative** : n/a

**Type of Application** : For dispensation from the consultation requirements required by section 20 of the Landlord and Tenant Act 1985

**Tribunal Members** : Judge Carr  
Mr Jarero BSc FRICS

**Date of Decision** : 19<sup>th</sup> December 2018

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**DECISION**

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## **Decision of the Tribunal**

1. The Tribunal determines to exercise its discretion to dispense with the consultation requirements contained in Part 2 of Schedule 4 to the Service Charges (Consultation Requirements) England) Regulations 2003.

## **The Application**

2. Ms Ruby Bates, on behalf of Savills (UK) Ltd, managing agents for the freeholder of the premises, applied on 13<sup>th</sup> November 2018 under section 20ZA of the Landlord and Tenant Act 1985 for dispensation from the consultation requirements contained in Part 2 of Schedule 4 to the Service Charges (Consultation Requirements) England) Regulations 2003.

## **Procedure**

3. The Tribunal held a case management review of this matter on 20<sup>th</sup> November 2018 and issued directions on the same date. In those directions it was decided that in view of the urgency of the application the matter should be determined on the basis of written representations and without an oral hearing.
4. The Directions gave an opportunity for any party to request an oral hearing. They also gave an opportunity for any leaseholder who wishes to oppose the application from the landlord to provide a statement to the Tribunal setting out his or her reasons for so doing. None of the parties requested an oral hearing, nor has any leaseholder indicated opposition to the application, and therefore the matter is being determined on the basis of the documents provided.

## **Determination**

### **The Evidence**

5. The evidence before the Tribunal indicates as follows:
  - a. There was an inspection of the lifts to the property which revealed a requirement to replace the suspension ropes to the lift. This work was fully consulted on. No nominations or objections were received. Leaseholders were eager to have the lift repaired as soon as possible.
  - b. Works were instructed with the cheapest tender, Aspect Lifts. When the contractor attended the site to undertake the works it discovered that sheaves also required replacement. Upon review

of the quote by Aspect and another two contractors, Aspect Lifts were instructed to proceed with both sets of works. The works were completed and the lift was back in service

- c. The next day Aspect re-attended the property to check the lift and found the lift out of service. Following investigation the contractors informed the managing agents that the ropes had overstretched causing the safety gear to engage and subsequently one of the ropes detached. There was also evidence of the hoisting machine having been damaged during this incident.
- d. Savills then appointed lift consultants, Gerald Honey Partnership to undertake a review of further necessary works. Their recommendation was to undertake replacement of several parts of the lift and undertake fully modernisation in the future.
- e. Leaseholders were continually updated on the progress of works via email and telephone. There was a consensus to have the lift back in working order as soon as possible.
- f. Aspect Lifts were asked to provide quotes based on the lift consultant's recommendations. The quotes were reviewed and verified by the lift consultants and a new Notice of Intention was served on all leaseholders. All leaseholders were also informed that Savills were applying for dispensation from consultation.
- g. Works were commenced on 19<sup>th</sup> November with a completion date on 21<sup>st</sup> December. The works were very close to completion when, on 11<sup>th</sup> December Aspect Lifts advised that the safety gear had had a catastrophic failure and need to be replaced.
- h. The intention is to engage the lift consultants to review the proposed works and the cost ensuring that it is reasonable.
- i. The managing agents therefore applied to the Tribunal for dispensation from the consultation requirements on the basis that there is an urgent need to complete the works to the lift and return it to working order.
- j. Following the issue of directions, the managing agents communicated with all of the lessees about the proposed works and their urgency. No objections were received in connection with the proposed works.

### The Law

6. The Tribunal is being asked to exercise its discretion under s.20ZA of the Act. The wording of s.20ZA is significant. Subs. (1) provides:
7. “Where an application is made to a leasehold valuation 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**” (emphasis added).

### The Tribunal’s decision.

8. The Tribunal determines to grant the application.

### The reasons for the Tribunal’s decision.

9. The Tribunal considers that the works are necessary and urgent.
10. **The parties should note that this determination does not concern the issue of whether any service charge costs will be reasonable or indeed payable. The Respondents are able, if it appears to them to be appropriate, to make an application under s.27A of the Landlord and Tenant Act 1985 as to reasonableness and payability.**

Signed Judge Carr

Dated 19<sup>th</sup> December 2018