

FIRST-TIER TRIBUNAL PROPERTY CHAMBER (RESIDENTIAL PROPERTY)

Case Reference	:	LON/00BK/LDC/2021/0302		
Property		: 22-25 Northumberland Avenue, London, WC2N 5AP		
Applicant	:	Trafalgar Square Properties Limited		
Representative	:	Town and City Management Limited		
Respondents	:	All leaseholders of the premises ("the tenants")		
Representative	:	In person		
Type of Application	:	For dispensation from the consultation requirements under section 20ZA Landlord & Tenant Act 1985		
Tribunal Member	:	Tribunal Judge Mr R Waterhouse BSc (Hons) LLM Property Law MA FRICS		
Date of Decision	:	1 st March 2022		
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 72 pages.

Decision

- (1) We determine that unconditional dispensation should be granted from the consultation requirements from stage 2 onwards under s20 of the Landlord and Tenant Act 1985 (the Act) and the Service Charges (Consultation Requirements) (England) Regulations 2003 in respect of the property 22-25 Northumberland Avenue, London, WC2N 5AP
- (2) We make no determination as to the reasonableness of the costs of same, these being matters which can be considered, if necessary, under the provisions of s27A and s19 of the Act.

The application

- 1. The applicant landlord sought dispensation from the consultation provisions in respect of the works to repair a leak to the roof impacting on Flat 3. The Property is a "five-floor residential conversation with a commercial unit on the bottom."
- 2. The application was dated 18th November 2021 and indicated an urgency. The reasons stated in the application are as follows. "There is currently water ingress into Flat 3 causing on-going damage to the flat. Works are required to the roof and box gutters in order to prevent this and prevent this and prevent any further damage to the building. Quotations are enclosed. "and "Unfortunately the damage needs to be stopped and cannot wait for a Section 20 consultation to proceed, as this will mean further bad weather over the winter months."
- 3. The Directions dated 9th December 2021, provided for the tenants to be given copies of the Statement of Case and application form, a brief statement to explain the reasons for the application and display a copy of the directions in a prominent place in the common parts of the property.
- 4. The case was reviewed by Judge N Carr on 10th February 2022, and found not to be ready for determination. The directions were amended. The applicant must send to the tribunal, copied to any participating

leaseholder, its bundle in compliance with paragraph 4 of the Directions by 18 February 2022.

- 5. The Directions note, if the Applicant fails to comply, the tribunal may strike out its application without further notice pursuant to rule 9(1) and (3) (a) of the Tribunal Procedure (First Tier Tribunal) (Property Chamber) Rules 2013.
- 6. The tribunal did not consider that an inspection of the Property was necessary, nor would it have been proportionate to the issues in dispute.
- 7. 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

- 8. The matter came before us for consideration on 1st March 2022. We had a bundle of some 72 pages. This was received on 14th February 2022 prior to the date of 18th February 2022 as required by the Directions. These included; copy of "Notice of intent to carry out works" dated 18th November 2021. A copy of the lease for Flat 1 dated 3rd August 2004. Copy of report dated 17 November 2021 to investigate a repair of the roof quoting £2050.00 plus VAT. A quotation for scaffolding from ABC Maintenance South Ltd for £9475.00 including VAT.
- 9. It is appropriate to record at the outset that the tribunal has not received any Reply forms completed by the Respondents, and so there are no objections to the application before us, or representations objecting.

<u>Findings</u>

- 10. We are, aware of the judgment in Daejan Investments Limited v Benson and others [2013] UKSC 14. The application for dispensation is not challenged.
- 11. The Supreme Court (Lord Neuberger at para 50) accept 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.

- 12. Accordingly, we find that unconditional dispensation should be granted. In making our decision we have borne in mind the quotes which we were referred, which in our finding clearly indicate that works are required at the Property.
- 15. Our decision is in respect of the dispensation from the provisions of s20 of the Act only. Any concern that a Respondent has as to the standard of works, the need for them and costs will need to be considered separately and their position is not affected by our decision on this application.

Ríchard waterhouse

Name:	Tribunal Judge	1 st	0000
	Waterhouse	March	2022

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