

10728



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

**Case reference** : **LON/00AW/LDC/2015/0030**

**Property** : **43 Ovington Square, London SW3  
1LJ**

**Applicant** : **The Wellcome Trust Ltd**

**Representative** : **Knight Frank**

**Respondents** : **JP Kissner-Flat 1  
Mrs M Kumari-Flat 2  
Saleem Ghalia & Wahida Ghalia-  
Flats 3&4  
Lamia Bacchus-Flat 43A**

**Representative** : **None**

**Type of application** : **To dispense with the requirement  
to consult lessees about major  
works**

**Tribunal Judge** : **Mr L Rahman (Barrister)**

**Date and venue of  
hearing** : **2.4.15 at 10 Alfred Place, London  
WC1E 7LR**

**Date of decision** : **2.4.15**

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**DECISION**

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## **Decision of the tribunal**

- (1) The tribunal determines it is reasonable to dispense with the relevant consultation requirements.

## **The application**

1. An application has been made under s.20ZA of the Landlord and Tenant Act 1985 ("the 1985 Act") for a determination that all or any of the consultation requirements in relation to works to be undertaken by the applicant may be dispensed with if the tribunal was satisfied it was reasonable to dispense with such requirements.
2. The applicant confirmed it was happy for the application to be dealt with on paper if the tribunal thought it appropriate. The tribunal issued Directions on 9.3.15, stating that the tribunal considered that if none of the respondents requested an oral hearing then it would be appropriate for the application to be dealt with in this manner (without a hearing). None of the parties requested an oral hearing so the matter was listed to be dealt with on paper.

## **The background**

3. The property which is the subject of this application is a masonry / brick building, built in the early 1900's, and converted into 5 flats spread over 6 floors and including a lower ground floor.
4. The works ("the Works") for which the applicant seeks a dispensation of the consultation requirements are as follows:
  - (i) Repairing a leak into the raised ground floor flat from the first floor flat terrace.
  - (ii) The works entail replacing a number of joists, window lintels, a balcony floor covering, and associated decoration works.
  - (iii) The provisional schedule of the total costs is in the sum of £45,657.12 inclusive of vat.
5. The respondents would each be responsible for the proportion required under the terms of their leases.

## **The applicant's case**

6. The applicant states the leak only came to light when the leaseholder of the ground floor flat removed the ceiling and plaster from the walls as part of a licensed refurbishment project. It appears that the leak has been on-going for some time and has caused damage to the walls and joists. The flat has been uninhabitable since, as the leaseholder has been unable to complete the works. Therefore, the works are of an urgent nature.
7. The relevant works have been specified and tendered. The leaseholders have been supplied with a copy of the tender returns and advised of the proposed works and the landlord's intention to apply for dispensation from the consultation process and the reasons for it. The works were due to start on 2.3.15. The application for dispensation was made on 1.3.15

### **The respondent's case**

8. The tribunal issued directions on 9.3.15 stating that any respondent who opposes the application for dispensation shall provide a statement of case setting out their objection and details of any evidence on which they wished to rely by 18.3.15.
9. No representations have been received from the respondents.

### **The tribunal's decision**

10. The tribunal can only make a determination to dispense with the consultation procedure if it is satisfied that it is reasonable to do so. The purpose of the procedure under s.20 of the 1985 Act is to ensure that the long leaseholders do not suffer any prejudice when they are asked to pay for works that cost in excess of £250 per flat. The legislation recognises that there may be instances of urgency where the lengthy consultation process, designed to give the long leaseholders full information about the works and to enable them to make comments and propose a contractor to be asked to provide a quote, cannot be followed and that is the reason for the dispensation provisions under s.20ZA of the 1985 Act.
11. This is an unopposed application. The applicant has attempted to comply with as much of the formal consultation requirements as possible. The tribunal found the work is of an urgent nature as the ground floor flat is at present uninhabitable.
12. For the reasons given, the tribunal is satisfied it is reasonable to dispense with the relevant consultation requirements contained in s.20 of the 1984 Act.
13. The dispensation of any or all of the requirements of s.20 of the 1985 Act does not indicate that the cost itself is reasonable or that the work / service is of a reasonable standard. The respondents may, if they wish, make a subsequent application under s.27A of the 1985 Act, challenging either the

need or quality of such works, the recoverability of the cost under the lease, or the level of the cost.

**Tribunal Judge:** L Rahman

**Date:** 2.4.15