

12357



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

**Case reference** : LON/00AE/LDC/2017/0081

**Property** : 4-6 Watford Road, Wembley,  
Middx. HA0 3EW

**Applicant** : Dada Properties Ltd

**Representative** : Altomart Ltd

**Respondents** : Mr G Jethabhai Patel & Mrs AG Patel  
(Flat 4a)  
Mrs S Khesro (Flat 4b)  
Network Stadium Housing Associatin Ltd  
(Flat 6a)  
Mr K Pandya and Ms F Dave (Flat 6b)

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

**Tribunal** : Judge Nicol

**Date of decision** : 14<sup>th</sup> September 2017

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**DECISION**

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The Tribunal has determined that the Applicants shall be granted dispensation from the statutory consultation requirements in relation to the proposed roof works at the subject property.

**Reasons**

1. The Applicant is the landlord of the subject property, a purpose-built building with commercial premises on the ground floor and four flats above (three 2-bedroom and one 1-bedroom). The roof requires repair as it is currently permitting water to penetrate Flat 6b (photos of this were included in the Applicant's bundle for the Tribunal) – it is coming through a light

fitting, potentially compromising the safety of the electrical system. The Tribunal was provided with the lease for one of the flats which, it is assumed, is standard. Under that lease, the Applicant is obliged to maintain the property, including the roof, and keep it insured and the lessees are obliged to pay a proportionate share of the costs incurred.

2. The Applicants charge for services on an ad hoc basis and do not charge a management fee. Possibly due to this lack of any structure for a regular service charge, the Applicants' agents had difficulty finding a suitable contractor when the lessee of Flat 6b, Mr Pandya, complained about the water penetration. Eventually, they obtained quotes for the roof works from Hinson Roofing Ltd and for the necessary scaffolding from KV Scaffolding. On 19<sup>th</sup> July 2017 the Applicant's agents wrote to the lessees notifying them that they intended to repair the roof and that a service charge would result. On 31<sup>st</sup> July 2017 a letter was sent to the lessees attaching the quotes, breaking down the costs and setting out the resulting service charge for each flat of £941.83. There was a delay when the scaffolding licence needed amendment but the intention was to have started the works by now.
3. The amount of the service charge is large enough to trigger the statutory consultation requirements under section 20 of the Landlord and Tenant Act 1985 and the Service Charges (Consultation Requirements) (England) Regulations 2003. However, the Applicant felt the works were too urgent due to the aforementioned water penetration. On 20<sup>th</sup> July 2017 the Tribunal received their application for dispensation from the consultation requirements in accordance with section 20ZA of the Act.
4. The Tribunal made directions on 25<sup>th</sup> July 2017 requiring each lessee to complete and return a form indicating whether they supported or opposed the application. Only one Respondent (Mr Pandya) returned the form and he indicated his support for the application.
5. In accordance with the Supreme Court's decision in *Daejan Investments Ltd v Benson* [2013] 1 WLR 854, the primary issue when considering dispensation is whether any lessee would suffer any financial prejudice as a result of the lack of compliance with the full consultation process. Given the absence of any objections, it is impossible to identify any financial or other prejudice. The only evidence is that urgent works were required.
6. Given the lack of prejudice or objections, the Tribunal is satisfied that it is reasonable to dispense with the statutory consultation requirements.

**Name:** NK Nicol

**Date:** 14<sup>th</sup> September 2017