



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

**Case reference** : **LON/00AW/LDC/2021/0086**  
**P:Paperremote**

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

**Applicant** : **Welcome Trust Limited**

**Respondent leaseholders** : **The leaseholders named on the application**

**Type of application** : **To dispense with the consultation requirements under S.20 Landlord and Tenant Act 1985**

**Tribunal member(s)** : **Mrs E Flint FRICS**

**Date and venue of determination** : **8 November 2021**  
**Remote on the papers**

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**DECISION**

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This has been a remote hearing on the papers which has been consented to by the Applicant and not objected to by the Respondent. A face to face hearing was not held because it was not practicable, no-one requested the same, and all the issues could be determined on the papers. The documents that I was referred to were emailed to the Tribunal, the contents of which I have recorded.

### **Decision of the tribunal**

- (1) The Tribunal grants dispensation from all of the consultation requirements under S.20 of the Landlord and Tenant Act 1985 in relation to repairs to and rerouting of waste pipework to flat 3. The defective external pipework was causing a major leakage into the building. The cost of the works is £8,946.00 including VAT.
- (2) The question of reasonableness of the works or cost was not included in this application, the sole purpose of which is to seek dispensation.

### **The Background**

1. The application under section 20ZA of the Landlord and Tenant Act 1985 (“the Act”) was made by the applicants on 24<sup>th</sup> March 2021.
2. The application concerned the re-routing and replacement of pipework to mitigate further damage to the building.
3. Directions were issued on 23 April 2021 requiring the applicant to prepare bundles by 4 June 2021 to include statements
  - (i) Setting out the full grounds for the application, including all of the documents on which the landlord relies and copies of any replies from the tenants;
  - (ii) The Leaseholders were asked to confirm by 21<sup>st</sup> May 2021 whether or not they would give their consent to the application.
  - (iii) In the event that such agreement was not forthcoming the leaseholders were to state why they opposed the application; and provide copies of all documents to be relied upon.
4. No objections were received from the leaseholders.
5. The Leaseholders were informed in the Directions issued by the Tribunal that the question of reasonableness of the works or cost was not included in this application, the sole purpose of which is to seek dispensation.

### **The Evidence**

6. 43 Ovington Square is an early twentieth century building which has been converted into six flats.

7. In July 2020 the leaseholder of Flat 2 reported water ingress from the flat above. Foxleys were instructed to attend and clear the gutters of any blockages.
8. Foxleys attended again and were able to gain access to Flat 3. It was apparent that the problem was due to a corroded external soil pipe into which the waste from the shower in Flat 3 discharged.
9. It was considered that the repair should be undertaken as a matter of urgency as the water ingress was continuing and the occupants of Flat 3 required use of the shower.
10. Scaffolding was erected, the external brickwork was excavated, the waste pipes from the sink and shower in Flat 2 isolated and capped off. The wastes were re-routed into the external stack complete with a backflow check and the walls made good.
11. A further inspection was carried out to ensure that the repairs were successful and the scaffold struck.

### **The Decision**

12. The relevant test to be applied in an application for dispensation was set out by the Supreme Court in *Daejan Investments Ltd v Benson & Ors* [2013] UKSC 14 where it was held that the purpose of the section 20 consultation procedure was to protect tenants from paying for inappropriate works or paying an inappropriate amount. Dispensation should not result in prejudice to the tenant.
13. The Tribunal determines from the evidence before it that the works were necessary, were required to be completed urgently and that no prejudice to the lessees has been demonstrated or asserted.
14. On the evidence before it, and in these circumstances, the Tribunal considers that the application for dispensation be granted.

**Name:** Evelyn Flint

**Date:** 8 November 2021

### **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 Tribunal 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 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.
4. 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.