



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

Case Reference	:	LON/00BK/LDC/2015/0125
Property	:	399/405 Oxford Street, London, W1C 2BU
Applicant	:	Conegate Limited
Representative	:	Chainbow Limited
Respondents	:	(1) Gilbert Reversions Limited; (2) Mr Ali Alaboodi; (3) Mr Demosthenis Chrysanthou; (4) Watch Guru Limited; and (5) Bankway Properties Ltd
Type of Application	:	Dispensation with Consultation Requirements
Tribunal Members	:	Judge Robert Latham Mr Ian Holdsworth FRICS
Date and venue of Hearing	:	25 November 2015 at 10 Alfred Place, London WC1E 7LR
Date of Decision	:	25 November 2015

DECISION

The Tribunal determines to allow this application to dispense with the consultation requirements imposed by section 20 of the Landlord and Tenant Act 1985.

The Application

1. By an application made on 29 October 2015, the Applicant seeks dispensation with the consultation requirements imposed by section 20 of the Landlord and Tenant Act 1985 ("the Act"). The residential element of the property at 399/405 Oxford Street is located at 2 Gilbert Street. This comprises four residential flats held on a head lease by Gilbert Reversions Limited ("the head lessee"). There are four under-lessees who are named as the additional respondents.
2. The Applicant applies to dispense with statutory consultation in relation to works to replace a water tank which has leaked into Flat 3 and the communal areas. The Applicant states that the tank is beyond its' economic life. Temporary repairs have been executed. It now requires replacement. The works involve the removal and disposal of the existing cold water tank, temporary supplies for the duration of the works and the installation of new steel supports and a water tank.
3. On 2 November, the Tribunal gave Directions. On the same day, the Tribunal sent the Directions to the parties. By 11 November 2015, any leaseholder who opposed the application was required to complete a reply form which was attached to the Directions. This was to be sent to the Tribunal and to the Applicant.
4. No leaseholder has indicated that they oppose the application. On 16 November, the Applicant provided the Tribunal with the required Bundle of Documents.
5. Section 20ZA(1) of the Act provides:

"Where an application is made to the appropriate 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."
6. We have been provided with a witness statement by Mr Laurence Fairchild, who is the Regional Facilities Manager at Cushman & Wakefield Site Services Limited ("C&W") who manage the property at 399/405 Oxford Street on behalf of the Applicant, freeholder. The water tank is situated on the 5th floor and only serves the residential areas. The full cost of the replacement of the water tank will be met by the head lessee who will pass the cost on to the four under-lessees. It is understood that each will contribute 25% of the cost.
7. On 25 September, Mr Fairchild was notified that there was a major ingress of water into Flat 3 and also the communal areas on the 4th

floor. The leak was identified as coming from the water tank plant room. The cause of the problem was found to be ball cock which was rusted and jammed. Temporary repairs were executed. The tank overall was found to be in a very poor condition.

8. On 7 October, CTS provided a quote in the sum of £7,392 to replace the water tank. It would seem that this was the only quote that has been obtained. On 19 October, C&W served a Notice of Intention on the head lessee. They invited the head lessee to make written observations in relation to the proposed works. They notified him, that they intended to make an application for dispensation as the works were required urgently.
9. On 20 October, the head lessee notified the four under-lessees of the Notice of Intention. Mr Tom Bolt, the tenant of Flat 3, complained that his flat had been the subject of some 10 floods over the previous 8 years. He was dissatisfied with the performance of C&W. He was intending to arrange for internal decorations of his flat and did not want C&W into his flat again. The head lessee passed on his e-mail to C&W. On 13 November, Ms Brittany Corr, an Associate with C&W, noted that none of these previous instances of water ingress had been linked to the water tank.
10. On 29 October, the Applicant issued this application. On 2 November, the Tribunal gave Directions. On 11 November, Seddons, Solicitors, wrote to C&W on behalf of Mr Chrysanthou, the under-lessee of Flat 2. Details were sought of the proposed works. On 12 November, Ms Corr responded. Details were provided of the quote for remedial works to Flat 3 and for decorations to the common parts. The quote for the replacement of the water tank was attached. The Solicitor seemed to be satisfied by the response. There was no further correspondence.
11. Mr Fairchild states that works are due to commence on 7 December and will take 5 to 6 days. The entire water tank will be replaced. He believes that this work should be done without delay to mitigate future losses due to the current state of the water tank. C&W are now aware of its defective condition. The repair to the ball cock is only temporary.
12. The Tribunal is satisfied that it is reasonable to grant dispensation from the consultation requirements. This is justified by the urgent need for the works. The Applicant has taken reasonable steps to bring their proposed action to the attention of the Respondents. No Respondent has questioned the need for the works or the urgency of the situation. No Respondent has suggested that s/he would be caused any prejudice were the Tribunal to grant this application.
13. The Tribunal notes that the only issue which we have been required to determine is whether or not it is reasonable to dispense with the statutory consultation requirements. This application does not concern

the issue of whether any service charge costs will be reasonable or payable.

Judge Robert Latham

25 November 2015