

13098



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

Case Reference : **LON/00AG/LDC/2018/0190**

Property : **14, West Central Street, London,
WC1A 1JJ**

Applicant : **LabTech Investments Limited**

Representative : **Savills (UK) Ltd**

Respondent : **ALL LESSEES AS PER
APPLICATION**

Representative : **n/a**

Type of Application : **For dispensation from the
consultation requirements
required by section 20 of the
Landlord and Tenant Act 1985**

Tribunal Members : **Judge Carr
Mr Jarero BSc FRICS**

Date of Decision : **19th December 2018**

DECISION

Decision of the Tribunal

1. The Tribunal determines to exercise its discretion to dispense with the consultation requirements contained in Part 2 of Schedule 4 to the Service Charges (Consultation Requirements) England) Regulations 2003.

The Application

2. Rachel Cripps, on behalf of Savills (UK) Ltd, managing agents for the freeholder of the premises, applied on 19th November 2018 under section 20ZA of the Landlord and Tenant Act 1985 for dispensation from the consultation requirements contained in Part 2 of Schedule 4 to the Service Charges (Consultation Requirements) England) Regulations 2003.

Procedure

3. The Tribunal held a case management review of this matter on 30th November 2018 and issued directions on the same date. In those directions it was decided that in view of the urgency of the application the matter should be determined on the basis of written representations and without an oral hearing.
4. The Directions gave an opportunity for any party to request an oral hearing. They also gave an opportunity for any leaseholder who wishes to oppose the application from the landlord to provide a statement to the Tribunal setting out his or her reasons for so doing. None of the parties requested an oral hearing and therefore the matter is being determined on the basis of the documents provided.

Determination

The Evidence

5. The evidence before the Tribunal indicates as follows:
 - a. There was water ingress into one of the flats in the premises causing damage to the flat. There appeared to be a defect in the roof immediately above Flat 10.
 - b. The managing agents initially sent a contractor to investigate, who carried out water testing and repairs to one area of the roof. The repair appeared to have worked initially. However the leak returned and now affects several areas of the ceiling. Upon seeking 2 quotes for the required repairs, it has been advised that the roof is completely re-sealed/recovered.

- c. Despite commencing the statutory consultation procedures the Applicants wish to carry the work out urgently.
- d. The managing agents therefore applied to the Tribunal for dispensation from the consultation requirements on the basis the urgent nature of the works which is causing distress and inconvenience.
- e. Following the issue of directions, the managing agents communicated with all of the lessees about the proposed works and their urgency. No objections were received in connection with the proposed works. However two lessees raised objections to contributions. Both lessees raised the issue of insurance, and the argument that as the damage to the roof was caused by the leasehold owner of Flat 7 who built a conservatory on the terrace (since removed) they should not be required to contribute towards the costs of repairs.

The Law

6. The Tribunal is being asked to exercise its discretion under s.20ZA of the Act. The wording of s.20ZA is significant. Subs. (1) provides:
7. “Where an application is made to a leasehold valuation 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**” (emphasis added).

The Tribunal’s decision.

8. The Tribunal determines to grant the application.

The reasons for the Tribunal’s decision.

9. The Tribunal considers that the works are necessary and urgent.
10. The objections raised do not relate to the necessity of the works or the quotations received, but to the payability of the charges. These matters are relevant for any proceedings under s.27A of the Landlord and Tenant Act 1985, but are not relevant to the dispensation proceedings.
11. **The parties should note that this determination does not concern the issue of whether any service charge costs will be**

reasonable or indeed payable. The Respondents are able, if it appears to them to be appropriate, to make an application under s.27A of the Landlord and Tenant Act 1985 as to reasonableness and payability.

Signed Judge Carr

Dated 19th December 2018