



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

Case Reference : **LON/00AW/LDC/2018/0061**

Property : **42 Lennox Gardens London SW1 0DF**

Applicant : **The Wellcome Trust**

Representative : **Savills (UK) Limited**

Respondents : **The various long leaseholders listed on
the sheet attached to the Application**

Representative : **None**

**Type of
Application** : **For dispensation of the consultation
requirements under section 20ZA**

Tribunal Judge : **Judge Pittaway**

Date of Decision : **8 May 2018**

DECISION

The Tribunal's decision

1. The Tribunal determines that an order under section 20ZA of the 1985 Act dispensing with the consultation requirements in relation to qualifying works shall be made in relation to the cost of emergency repairs to the front section of the roof, namely replacing the slate roof coverings to the front pitch of the main roof of 42 Lennox Gardens, London SW1X 0DF (the "**Property**").
2. The parties should be aware that this decision does not concern the issue of whether the service charge costs in relation to these works and costs are reasonable and payable and those costs may be the subject of a challenge under section 27A of the Landlord and Tenant Act 1985.

The application

3. The Applicant seeks an order pursuant to s.20ZA of the Landlord and Tenant Act 1985 (as amended) ("the **1985 Act**") for the retrospective dispensation of any or all of the consultation requirements of section 20 of the 1985 Act. The Property is described in the application as a masonry/ brick building built in the early 1900s and converted into 6 flats.

The background

4. The application was received by the tribunal on 6 April 2018. The application seeks retrospective dispensation in relation emergency roof repairs which were carried out in 2017 without any consultation then being undertaken, as the roof was leaking. Full consultation had taken place in 2015 for repairs to the roof, but these works had been postponed following the discovery of more urgent work required to the rear roof by reason of the presence of asbestos.
5. The applicant indicated that it would be content for the matter to be dealt with by way of written representations.
6. Directions were made dated 10 April 2018 which set out the steps to be taken by the parties.
7. The directions provided that that any tenant who wished to oppose the application should do so by serving a statement to that effect on the tribunal and the applicant by 5pm on 24 April 2018. The tribunal has not received any statements from the tenants opposing the application.

8. The directions indicated that the application would be dealt with on the basis of written representations unless any party requested an oral hearing. No party did so.
9. The tribunal received bundles of documents from the applicant's representative, Sylwia Balcerzak of Savills (UK) Ltd on 1 May 2018, which included a statement of case from the applicant, and has had regard to those documents in reaching its decision.
10. The only issue before the Tribunal is whether it should grant dispensation from all or any of the consultation requirements contained in section 20 of the 1985 Act.
11. The tribunal did not consider that an inspection was necessary.

The Applicant's case

12. In her statement of case Ms Balcerzak stated that the cyclical repair work proposed to the front roof in 2015 (when full section 20 consultation was undertaken) was postponed when it was discovered that the rear of the roof had asbestos containing tiles which required replacing urgently. The case sheet from Knight Frank which she has provided indicates that to avoid exceeding the then budget the work to the rear roof was given priority and the repair to the front roof postponed. In July 2017 there was water ingress to one of the flats by reason of the state of repair of the front roof. The applicant instructed its then managing agents Knight Frank to specify and tender the repair works before further consultation, to avoid the possibility of considerable damage if the works were not carried out before the winter when more rain was expected.
13. Two quotes were obtained, from Collins (Contractors) Limited and Montagu Property Services. Collins (Contractors) Limited carried out the work and would appear to have completed the same by 2 November 2017 when they submitted their invoice for £25,068.00 (inclusive of VAT)

Reasons for the Tribunal's decision

14. The tribunal has the jurisdiction to grant dispensation under section 20ZA of the 1985 Act "*if satisfied that it is reasonable to dispense with the requirements*".
15. The tribunal note that the applicant considered the need for the works to be an emergency, and that the tribunal has not received any statements from the tenants opposing the application

16. In light of the above the tribunal considers that it is reasonable to dispense with the consultation requirements.

Application under s.20C

17. There was no application for any order under section 20C before the tribunal.

Name: Judge Pittaway

Date: 8 May 2018

Rights of appeal

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the tribunal is required to notify the parties about any right of appeal they may have.

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.

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.

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.

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.

If the tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).