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

Case reference : **LON/00AW/LDC/2018/0155**

Property : **40-43 Onslow Gardens, London
SW7 3PY**

Applicant : **The Wellcome Trust Limited**

Representative : **Savills (UK) Limited**

Respondents : **The lessees listed in the schedule to
the application**

Type of application : **To dispense with the requirement
to consult leaseholders**

Tribunal Member : **Judge N Hawkes
Mr M Mathews FRICS**

Venue : **10 Alfred Place, London WC1E 7LR**

**Date of paper
determination** : **25 October 2018**

DECISION

Background

1. The applicant has applied to the Tribunal under s20ZA of the Landlord and Tenant Act 1985 ("the 1985 Act") for dispensation from the consultation requirements contained in section 20 of the 1985 Act in respect of certain qualifying works to 40-43 Onslow Gardens, London W1G 0JD ("the Property").
2. The Tribunal has been informed that the Property comprises four terraced mansion houses that have been converted into nineteen flats.
3. The application is dated 17 September 2018 and the applicant has requested a paper determination. Directions of the Tribunal have been issued which are dated 26 September 2018.
4. No application has been made by any of the respondents for an oral hearing. This matter has therefore been determined by the Tribunal by way of a paper determination on 25 October 2018.
5. The Tribunal did not consider an inspection of the Property to be necessary or proportionate to the issues which require determination.

The applicant's case

6. The applicant applies for dispensation from the requirements to consult leaseholders under section 20 of the 1985 Act in respect of proposed repairs to the communal roof, parapet and gutters of the Property in order to stop water ingress into a number of flats on the fourth and fifth floors.
7. The applicant states that it served a Notice of Intention to carry out the proposed work on the respondents on 7 September 2018 and that no objections to the proposed work have been received. The applicant seeks dispensation from the remaining consultation requirements in order to limit the damage to the affected flats.
8. The applicant has not received any written objections to this application from the respondents.

The respondents' case

9. None of the respondents have filed a reply form and/or representations opposing the applicant's application.

The Tribunal's determination

10. Section 20 of the 1985 Act provides for the limitation of service charges in the event that statutory consultation requirements are not met.
11. The consultation requirements apply where the works are qualifying works (as is the case in this instance) and only £250 can be recovered from a tenant in respect of such works unless the consultation requirements have either been complied with or dispensed with.
12. The consultation requirements are set out in the Service Charges (Consultation Requirements) (England) Regulations 2003.
13. Section 20ZA of the 1985 Act provides that, where an application is made to the Tribunal for a determination to dispense with all or any of the consultation requirements in relation to any qualifying works, the Tribunal may make the determination if satisfied that it is reasonable to dispense with the requirements.
14. The applicant accepts that it became aware an instance of water ingress into one of the top floor flats in May 2018. The Tribunal notes that, if the statutory consultation process had been commenced promptly thereafter, the consultation would have been completed prior to the date on which this application was made.
15. However, the Tribunal also takes into account (i) the absence of any objection to the application on the part of the lessees; and (ii) the fact that, if the proposed work is not commenced as soon as possible, water ingress is likely to cause further damage to the relevant flats to the detriment of the lessees of those flats. The applicant has expressed the wish to carry out the proposed work "before the weather gets wetter and colder".
16. In all the circumstances, the Tribunal determines pursuant to section 20ZA of the Landlord and Tenant Act 1985, that it is reasonable in all the circumstances to dispense with the statutory consultation requirements (insofar as they have not already been complied with) in respect of the work which forms the subject matter of the applicant's application dated 17 September 2018.
17. **This decision does not concern the issue of whether any service charge costs will be reasonable or payable.**

Judge Hawkes

Date 25 October 2018

ANNEX - 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.