

11623



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

**Case reference** : **LON/00AW/LDC/2016/0103**

**Property** : **34 Cranley Gardens, London SW7  
3DD ('the property')**

**Applicant** : **The Wellcome Trust Ltd (as  
trustees of the Wellcome Trust)**

**Representative** : **Knight Frank LLP**

**Respondent** : **Various leaseholders of flats at the  
property (flats A, B, C, D, E, F, G, H,  
I)**

**Representative** : **.....**

**Type of application** : **Section 20ZA Landlord and Tenant  
Act 1985**

**Tribunal member(s)** : **Miss A Seifert FCI Arb  
Mr S Shaw FRICS**

**Date and venue of  
hearing** : **15<sup>th</sup> November 2016 at 10 Alfred  
Place, London WC1E 7LR**

**Date of decision** : **15<sup>th</sup> November 2016**

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**DECISION**

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## **Decisions of the tribunal**

- (1) The tribunal determines that an order be made under section 20ZA of the Landlord and Tenant Act 1985 ('the Act') dispensing with all of the consultation requirements in section 20 of the Act.

## **The application**

1. The applicant seeks a determination pursuant to section 20ZA of the Act for the dispensation of all or any of the consultation requirements provided for by section 20 of the Act.
2. The tribunal issued directions dated 5<sup>th</sup> October 2016.
3. The application has been determined on the basis of the documents before the tribunal.

## **The tribunal's reasons for the decision**

4. The application was made by The Wellcome Trust Ltd (as trustees of the Wellcome Trust) the landlord.
5. In the application form dated 30<sup>th</sup> September 2016, it was stated that the property is a masonry / brick building built in the early 1900's and converted into 9 flats spread over 5 floors including the lower ground floor.
6. In the application form the grounds for seeking dispensation were stated as follow:

*The communal boiler in the [property] which serves hot water and heating to 4 of the flats (Flat F, G, H & I only) failed the annual gas safety certificate and was deemed unsafe. Due to the age of the boiler and the works required it was deemed that the boiler would have to be replaced. In addition to this a new gas flue would have to be installed as the one in situ was not deemed safe. As a result of the residents not having any hot water and heating, The Wellcome Trust forward funded the works to replace and install a new communal boiler.*

7. It was stated in the application that the leaseholders had not been consulted but that the applicant / managing agents had written to them to advise them that the works would be overseen by a M & E consultant, tendered and the most competitive contractor would be instructed. They were also informed of the landlord's intention to apply for dispensation.

8. The reason stated for seeking dispensation was that to follow the consultation requirements would have resulted in a substantial period during which the residents would not have hot water or central heating.
9. The applicants provided a bundle of documents in support of the application. This included correspondence from the managing agents, Knight Frank, to the leaseholders of flats which used the communal boiler system and letters to various leaseholders regarding the works to the property and dispensation from the consultation process.
10. The bundle of documents also included a copy of a certificate dated 20<sup>th</sup> April 2016, from PHO Mechanical Ltd, certifying that the boiler in the property was dangerous because 'The boiler flue terminates in an unsafe position'. Photographs were provided.
11. A letter from PHO Mechanical Ltd dated 25<sup>th</sup> April 2016, referred to that firm's visit to the property and stated that the boiler had been condemned due to incorrect flue termination, no ventilation and the age and condition of the boiler, which was stated to be approximately 15 years plus. It was noted that the boiler communally served four flats, F, G, H and I, which each had different forms of hot water storage with time temperature controls. Quotations were provided by PHO Mechanical Ltd, Resolute Engineering Services Ltd and Chillmech Limited. Following revised quotations MEDC, M & E design consultants, reported on the contractors' quotations on 16<sup>th</sup> May 2016. PHD Mechanical Ltd was instructed and works were carried out in June and July. By August 2016, following an inspection, it was confirmed that the bulk of the work was complete.
12. Under section 20ZA, where an application is made to the tribunal for a determination to dispense with all or any of the consultation requirements of the Act in relation to any qualifying works, the tribunal may make a determination if satisfied that it is reasonable to dispense with the requirements.
13. Having considered the evidence, the tribunal is satisfied that in the circumstances of this application it is reasonable to dispense with the requirements of section 20 of the Act. Accordingly the tribunal makes an order for dispensation.

A Seifert

Judge of the First-tier tribunal (Property Chamber)

Date: 15<sup>th</sup> November 2016

## **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).