



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

Case reference : LON/00AY/LDC/2017/0133

Property : Compton Court, Victoria Crescent,
London SE19 1AF

Applicant : Compton Court Ltd

Representative : Urban Owners

Respondents : Various leaseholders as per the
application

Type of application : To dispense with the requirement to
consult lessees about major works

Tribunal : Judge Nicol

Date of decision : 9th January 2018

DECISION

The Tribunal has determined that the Applicant shall be granted dispensation from the statutory consultation requirements in relation to works to address the dry rot as recommended in the Cirpro report dated 22nd November 2017.

Reasons

1. The Applicant is the lessee-owned freeholder of the subject property, two purpose-built blocks containing a total of 33 units. The property is managed on their behalf by Urban Owners.
2. The Applicant commissioned Cirpro to investigate damp in Flat 9 on the ground floor. As they reported on 22nd November 2017, Cirpro found that the floor had been affected by dry rot due to ponding by the exterior wall. The Applicant felt that remedial works were too urgent to allow for

compliance with the statutory consultation requirements under section 20 of the Landlord and Tenant Act 1985 and the Service Charges (Consultation Requirements) (England) Regulations 2003 and so immediately applied for dispensation from those requirements under section 20ZA of the Act.

3. The Tribunal made directions on 24th November 2018 requiring the Applicant to display and send to each lessee both the application and the directions. This was done but no lessees have responded.
4. The Tribunal was provided with the lease for one of the flats which, it is assumed, is standard. Under that lease, the Applicant is obliged to maintain the property and the lessees are obliged to pay a proportionate share of the costs incurred.
5. In accordance with the Supreme Court's decision in *Daejan Investments Ltd v Benson* [2013] 1 WLR 854, the primary issue when considering dispensation is whether any lessee would suffer any financial prejudice as a result of the lack of compliance with the full consultation process.
6. There is clearly a significant issue which needs to be addressed urgently. The Applicant is proceeding with Cirpro's recommendations and is awaiting a further report on the full extent of the dry rot. It is unfortunate that there has yet to be an estimate of the likely cost and, therefore, the likely service charges but, as pointed out in paragraph 4 of the directions order, whether such charges are reasonable or payable is a separate issue from that being considered in this decision.
7. Given the lack of objection or any proven prejudice, the Tribunal is satisfied that it is reasonable to dispense with the statutory consultation requirements.

Name: NK Nicol

Date: 9th January 2018