



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

**Case Reference** : LON/00AG/LDC/2015/0116

**Property** : The Pryors, East Heath Road,  
London, NW3 1BS

**Applicant** : The Pryors Limited

**Representative** : Parkwood Management Company  
(London) Limited

**Respondents** : (See Schedule attached to these  
Reasons)

**Representative** :

**Type of Application** : To dispense with the statutory  
consultation requirements

**Tribunal Members** : Mrs H Bowers, MRICS

**Date and venue of  
Consideration** : 11 November 2015, 10 Alfred Place,  
London WC1E 7LR

**Date of Decision** : 11 November 2015

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**DECISION**

The Tribunal grants the application for dispensation from further statutory consultation in respect of the subject works. For clarity the works are the emergency propping works beneath flats 5 and 8 and the investigatory works to flat 6.

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## REASONS

### The Application

1. The Applicant seeks a determination pursuant to section 20ZA of the Landlord and Tenant Act 1985 ("the Act") dispensing with statutory consultation in respect of major works.
2. The Pryors, East Heath Road, London, NW3 1BS (the subject property) is described as a purpose built, Edwardian development of 60 flats in two blocks. There are 32 flats in Block A and 28 flats in Block B. The Applicant, The Pryors Limited is the landlord of the property and the Respondents are the leaseholders of the flats within the subject property.
3. The application was dated 12 October 2015. Directions were issued by the Tribunal on 19 October 2015. The Directions listed the matter for a paper determination for the week commencing 9 November 2015. The application seeks dispensation in respect of emergency propping works undertaken to tunnels under the floors of flats 5 and 8 and investigatory works to flat 6.
4. It appears that as a consequence of the leaseholder of flat 3 seeking permission to carry out works to that flat and the proposal to carry out refurbishment works to flat 6 (the Porter's flat) the Applicant engaged the services of Northwood Carter (previously known as Northwood Collins) to carry out an inspection. The inspection was carried out in September 2014 and the findings were that there were significant problems with the structural integrity of the floor structure of flats 3 and 6. A further inspection was undertaken on 27 October 2014 and this inspection extended to the basement light-well, storage rooms and flats 1-7, 9, 12, 20, 24 and 32. A report was produced on 31 October 2014. Although it had not been possible to inspect flat 8, it was concluded that because as flat 8 now incorporated an element of what had been previously included in flat 6, there was a significant probability that it would be suffering from the same structural problems. It was also identified that flat 4 had probably suffered from similar structural problems in 1984.
5. On 5 December 2014 the Applicant served the Notice of Intention as the commencement of the consultation process under section 20 of the Act. However further investigations were carried out in December 2014. It was discovered that there was a tunnel beneath flat 8 (tunnel 17) and some of this tunnel was 'unbraced'. Accordingly, the Applicant engaged the services of a structural engineer, Carter Clack. In an email from Tim Smith of Carter Clack dated 7 January 2015 it was stated that the issue should be dealt with as soon as possible. But then goes onto to state that if there is no increase to the loading, there is nothing to suggest immediate collapse. However, in a further email from Mr Smith on 14 January 2015, he stated that he could not guarantee the safety of the floor of flat 8 and that if the occupants are to be relocated, that should be done as soon as possible.

6. An initial design proposal, method statement and estimate was obtained from a potential contractor, Westwood Services Limited, in January 2015. However, Carter Clark as structural engineers, were instructed to prepare a structural design and method statement and this was sent out to two potential contractors, Westwood Structural Services Limited and Shaka Construction Limited. The Applicant instructed Westwood Structural Services Limited as the most competitive contractor. The emergency works propping up the tunnel beneath the floor of flat 8 was commenced on 10 February 2015 and completed on 19 February 2015.

7. On 12 February 2015, it was discovered that a further tunnel (tunnel 2) beneath flat 5, was giving rise to similar structural problems. It was decided that further emergency propping works was required to this tunnel area. These second propping works commenced on 30 March 2015 and completed on 10 April 2015. It was also decided that at this time the contractor should undertake investigatory works to flat 6. Although, this element of work would have been below the statutory threshold of £250 per unit, it is included in the application for dispensation as a matter of completeness and that to have excluded these works would have been artificial.

8. However, at the end of the second set of remedial works, a further void was identified below the bedroom of flat 5. This area remains now remains blocked off until the necessary remedial works are carried out.

9. A specification for the floor repairs to the ground floor of flats 5 and 8 is currently being prepared and the full consultation process is being undertaken in respect of that work. Hence the current application is restricted to the emergency propping works to flats 5 and 8 and the investigatory works to flat 6.

10. The Directions invited any Respondent who opposed the application to submit a response form and to make any statement of response to the Applicant by 2 November 2015. No forms were received by the Tribunal and no statement of response was included in the bundle. Indeed, in a letter from JPC Law dated 3 November 2015 it was confirmed that there had been no replies opposing the application. Accordingly, it appears that none of the Respondents oppose the application.

### **Determination**

11. Section 20ZA(1) of the Act provides:

*“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.”*

12. The Tribunal has taken account the decision in *Daejan Investments Ltd v Benson and others* [2013] UKSC 14.

13. As mentioned above there has been no engagement from any Respondent in respect of the application that would suggest that the works are not necessary and/or ought to have been the subject of full statutory consultation.

14. There is sufficient evidence before the Tribunal that the subject works were of an urgent nature. The works that were undertaken were essential to ensure the structural safety of flats 5 and 8. It also appears logical that whilst the emergency propping works were being carried out, that the investigatory works should occur. As this should have resulted in a more competitive contract sum.

15. In all the circumstances the Tribunal grants the application for dispensation from statutory consultation in respect of the subject works, considering it reasonable to do so. For clarity the works are the emergency propping works beneath flats 5 and 8 and the investigatory works to flat 6.

16. This decision does not affect the Tribunal's jurisdiction upon any application to make a determination under section 27A of the Act in respect of the reasonable cost of the work.

17. Finally, the Tribunal directs that the Applicant is to send a copy of this decision to each of the Respondents, within 7 days of receipt of this decision.



**Name:** H C Bowers

**Date:** 11 November 2015

**SCHEDULE**