



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

Case reference : LON/00BE/LDC/2017/0026

Property : 2-8 Shenley Road, London SE5 8NN

Applicant : McAnon Ltd

Representative : Warwick Estates Property
Management Ltd

Respondent : Varinder Verma (Flats A & C)
Sean Fulton, Matthew Rowley and
Rakesh Upadhyay (Flat B)
David Ware (Flat D)
Jane Common (Flat E)

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

Tribunal : Judge Nicol
Ms S Coughlin MCIEH

Date of decision : 25th April 2017

DECISION

The Tribunal has determined that the Applicant shall be granted dispensation from the statutory consultation requirements in relation to the works proposed to resurface the damaged walkway and install a new resin covering.

Reasons

1. The Applicant is the landlord of the subject property, a block of five flats managed by their agents, Warwick Estates. There is a walkway through which water has begun to leak into at least one of the flats. The Tribunal was provided with the lease for one of the flats which, it is assumed, is standard for the five flats and, under that lease, the Applicant is obliged to repair the

walkway and the lessees are each obliged to pay a proportionate share of the costs incurred.

2. In early March 2017, Warwick Estates obtained two quotes for the required remedial work:
 - Chequers Electrical and Building Services Ltd £2,250 plus VAT
 - Jaggar Support Services £2,030 plus VAT
3. These sums were large enough to trigger the statutory consultation requirements under section 20 of the Landlord and Tenant Act 1985 and the Service Charges (Consultation Requirements) (England) Regulations 2003. However, the Applicant is concerned that weather conditions are worsening the problem and believe the work is too urgent for the full consultation process to be completed. By letter dated 14th March 2017, Warwick Estates notified the lessees of their intention to carry out works and invited representations but also warned that they intended to apply to the Tribunal for dispensation from the consultation requirements in accordance with section 20ZA of the Act.
4. The Tribunal made directions on 27th March 2017 requiring the Applicant to send to each lessee both the application and the directions. None of the lessees have responded or sought to object to the proposed works.
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. Given the absence of any objections, it is impossible to identify any financial or other prejudice. The only evidence is that urgent repair works are required.
6. The application did not provide as much information as would be ideal. For example, there was no description of the property itself or of the genesis or severity of the problem. However, given the lack of prejudice or objections, the Tribunal is satisfied that it is reasonable to dispense with the statutory consultation requirements.

Name: NK Nicol

Date: 25th April 2017