



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

Case reference : LON/00BK/LDC/2019/0149

Property : 47 South Hill Park,
London NW3 2SS

Applicant : Lucy Parker-Chapman
Jules Parker

Representative : Tant Building Management Ltd

Respondents : Mr & Mrs Singh
Mr Kustow
Ms Whittow
Mr Ata-Ullah

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

Tribunal : Judge Nicol
Mr TW Sennett MA FCIEH

Date of decision : 8th October 2019

DECISION

The Tribunal has determined that the Applicant shall be granted dispensation from the statutory consultation requirements for works to replace lead piping with a new water main.

Reasons

1. The Applicants are the freeholders of the subject building, a Victorian property converted into four flats. Tant Building Management Ltd are their managing agents. The Respondents are the lessees of the four flats.
2. When a water pipe burst at the property, it was found that the pipes were lead and that there were unsafe levels of lead in the water supply. This meant the pipes needed to be replaced, rather than repaired. Until that is done, the four

flats have no water supply (other than one flat having water to one tap in the kitchen). A quote dated 14th August 2019 was obtained from DBK Builders to run a new water main through the communal area from the ground floor to the loft tanks at a cost of £7,348 plus VAT. The Applicants claim to have informed all the Respondents about these matters although the Tribunal has not been provided with any of the correspondence.

3. In any event, the Applicants decided that the works were too urgent to allow for compliance with the statutory consultation provisions of section 20 of the Landlord and Tenant Act 1985 and the Service Charges (Consultation Requirements) (England) Regulations 2003. Tant Building Management applied on their behalfs to the Tribunal under section 20ZA of the Act for dispensation from the consultation requirements.
4. The Tribunal issued directions on 9th September 2019 which were sent to all parties. The directions required any lessee who opposed the application to complete a reply form and send a statement of their case. None of the lessees responded.
5. The Tribunal was provided with a lease for the ground floor flat – it is assumed that all the leases are in similar form. Under that lease, the Applicant is obliged to maintain the property, including all tanks and pipes, and the lessee is obliged to pay a proportionate share of the costs incurred.
6. 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.
7. There is clearly a significant issue which needs to be addressed urgently. The Applicants have kept the lessees informed and it is telling that none of the lessees have sought to respond to the Tribunal application. As pointed out in paragraph (2) of the directions order, whether the resulting service charges are reasonable or payable is a separate issue from that being considered in this decision.
8. 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: 8th October 2019