



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

Case Reference : **LON/00BK/LDC/2021/0302**

Property : **22-25 Northumberland Avenue,
London, WC2N 5AP**

Applicant : **Trafalgar Square Properties
Limited**

Representative : **Town and City Management
Limited**

Respondents : **All leaseholders of the premises
("the tenants")**

Representative : **In person**

Type of Application : **For dispensation from the
consultation requirements under
section 20ZA Landlord & Tenant
Act 1985**

Tribunal Member : **Tribunal Judge
Mr R Waterhouse BSc (Hons) LLM
Property Law MA FRICS**

Date of Decision : **1st March 2022**

DECISION

This has been a remote paper determination, which has been consented to by the parties. A face-to-face hearing was not held because it was not practicable and no one requested same.

The documents the Tribunal were referred to were in a bundle of some 72 pages.

Decision

- (1) We determine that unconditional dispensation should be granted from the consultation requirements from stage 2 onwards under s20 of the Landlord and Tenant Act 1985 (the Act) and the Service Charges (Consultation Requirements) (England) Regulations 2003 in respect of the property 22-25 Northumberland Avenue, London, WC2N 5AP**
- (2) We make no determination as to the reasonableness of the costs of same, these being matters which can be considered, if necessary, under the provisions of s27A and s19 of the Act.**

The application

1. The applicant landlord sought dispensation from the consultation provisions in respect of the works to repair a leak to the roof impacting on Flat 3. The Property is a “five-floor residential conversion with a commercial unit on the bottom.”
2. The application was dated 18th November 2021 and indicated an urgency. The reasons stated in the application are as follows. “There is currently water ingress into Flat 3 causing on-going damage to the flat. Works are required to the roof and box gutters in order to prevent this and prevent this and prevent any further damage to the building. Quotations are enclosed. “and “Unfortunately the damage needs to be stopped and cannot wait for a Section 20 consultation to proceed, as this will mean further bad weather over the winter months.”
3. The Directions dated 9th December 2021, provided for the tenants to be given copies of the Statement of Case and application form, a brief statement to explain the reasons for the application and display a copy of the directions in a prominent place in the common parts of the property.
4. The case was reviewed by Judge N Carr on 10th February 2022, and found not to be ready for determination. The directions were amended. The applicant must send to the tribunal, copied to any participating

leaseholder, its bundle in compliance with paragraph 4 of the Directions by 18 February 2022.

5. The Directions note, if the Applicant fails to comply, the tribunal may strike out its application without further notice pursuant to rule 9(1) and (3) (a) of the Tribunal Procedure (First Tier Tribunal) (Property Chamber) Rules 2013.
6. The tribunal did not consider that an inspection of the Property was necessary, nor would it have been proportionate to the issues in dispute.
7. The only issue for the tribunal is whether or not it is reasonable to dispense with the statutory consultation requirements of section 20 of the 1985 Act. **This application does not concern the issue of whether any service charge costs will be reasonable or payable.**

Documents

8. The matter came before us for consideration on 1st March 2022. We had a bundle of some 72 pages. This was received on 14th February 2022 prior to the date of 18th February 2022 as required by the Directions. These included; copy of “Notice of intent to carry out works” dated 18th November 2021. A copy of the lease for Flat 1 dated 3rd August 2004. Copy of report dated 17 November 2021 to investigate a repair of the roof quoting £2050.00 plus VAT. A quotation for scaffolding from ABC Maintenance South Ltd for £9475.00 including VAT.
9. It is appropriate to record at the outset that the tribunal has not received any Reply forms completed by the Respondents, and so there are no objections to the application before us, or representations objecting.

Findings

10. We are, aware of the judgment in Daejan Investments Limited v Benson and others [2013] UKSC 14. The application for dispensation is not challenged.
11. The Supreme Court (Lord Neuberger at para 50) accept that there must be real prejudice to the tenants. Indeed, the Respondents do not oppose the application. It is accepted that we have the power to grant dispensation on such terms as we think fit. However, the Landlord is entitled to decide the identity of the contractors who carry out the work, when they are done, by whom and the amount. The safety net for the Respondents is to be found in sections 19 and 27A of the Landlord and Tenant Act 1985.

