



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

**Case Reference** : **LON/00AG/LDC/2022/0141**

**Property** : **13 Conway Street, London, W1T 6BC**

**Applicant** : **FIT Nominee & FIT Nominee 2 Limited**

**Representative** : **Sarah Oakley – Warwick Estates**

**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** : **Mr R Waterhouse BSc (Hons) LL.M  
Property Law MA FRICS**

**Date of Decision** : **18<sup>th</sup> October 2022**

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**DECISION**

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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) The tribunal determines that unconditional dispensation should be granted from the consultation requirements from section 20ZA of the Landlord and Tenant Act 1985 (the Act) in respect of the property 75-89 Lancaster Gate, London, WC2 3NH.**
- (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 application seeks dispensation from the consultation requirements under section 20ZA of the Landlord and Tenant Act 1985.
2. The relevant legal considerations are set out in the Appendix to this decision.
3. The application is concerned solely with the question of what consultation if any should be given of the consultation requirements of section 20 of the 1985 for works costing in excess of £250 per flat. It is not concerned with the reasonableness or payability of any service charges which may arise.

### **The hearing**

4. A written application was made by Warwick Estates dated 26<sup>th</sup> July 2022, who have been appointed by the freeholder, to make this application. The case was decided on paper and no appearances were made. The tribunal considered the written bundle of 74 pages, in support of the application. The estimated cost of the works is £4020.00

### **Background**

5. The property which is a house converted into five flats.
6. The applicant in this case is the freeholder.
7. This application concerns works to the roof of the building because there is damp and water damage to the third floor flat, taking place when it rains due to numerous slipped or broken tiles.
8. The application notes that the freeholder applicant is applying for dispensation from consultation for the works, because scaffolding has been erected in order to assess the roof, to enable obtaining quotation for the necessary works requirements.
9. The application also noted, it will be more cost effective, to have the works carried out, whilst the scaffolding is still up, at the property. No access was possible without the scaffolding.
10. The Directions dated 25<sup>th</sup> August 2022, require the landlord, the applicant, to send a copy of the application form, and or a brief statement of the works with reasoning to the leaseholders by 8<sup>th</sup> September 2022.
11. The Directions also note that any leaseholder who opposes the application should by the 22<sup>nd</sup> September 2022 complete the reply form and return it to the tribunal.
12. The tribunal received an e mail dated 11<sup>th</sup> September 2022 confirming the Directions had been complied with.
13. 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**

14. The applicant relied on the application form, included a specimen lease and a copy of the quote and subsequent invoice. No representations were received from the leaseholders.

### **The tribunal's decision**

15. The tribunal grants dispensation under section 20 ZA of the Landlord and Tenant Act 1985 and the Service Charges (Consultation) (England) 2003 for the works set out in the application.
16. We are, aware of the judgment in Daejan Investments Limited v Benson and others [2013] UKSC 14. The application for dispensation is not challenged.
17. The Supreme Court (Lord Neuberger at para 50) accepted 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.
18. Accordingly, we find that unconditional dispensation should be granted. In making our decision we have borne in mind the quotes which we were referred, which in our finding clearly indicate that works are required at the Property.
19. Our decision is in respect of the dispensation from the provisions of s20 of the Act only. Any concern that a Respondent has as to the standard of works, the need for them and costs will need to be considered separately and their position is not affected by our decision on this application.

*Richard Waterhouse*

**Name: Richard  
Waterhouse LLM  
FRICS**                      **18<sup>th</sup>  
October 2022**

#### **ANNEX – RIGHTS OF APPEAL**

- 1. If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber) then a written application for permission must be made to the First-Tier at the Regional Office which has been dealing with the case.**
- 2. The application for permission to appeal must arrive at the Regional Office within 28 days after the Tribunal sends written reasons for the decision to the person making the application.**
- 3. If the application is not made within the 28-day time limit, such application must include a request to an extension of time and the reason for not complying with the 28-day time limit; the**

**Tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed despite not being within the time limit.**

- 4. The application for permission to appeal must identify the decision of the Tribunal to which it relates (ie give the date, the property and the case number), state the grounds of appeal and state the result the party making the application is seeking**