



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

**Case reference** : LON/00BK/LDC/2019/0152

**Property** : 3 Marylebone High Street,  
London W1U 4NG

**Applicant** : Howard de Walden Estates Ltd

**Representative** : Charles Russell Speechleys LLP

**Respondents** : Lawrence Frank Harding  
Pamela Janet Reiss

**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** : 8<sup>th</sup> October 2019

---

**DECISION**

---

The Tribunal has determined that the Applicant shall be granted dispensation from the statutory consultation requirements for works in respect of the replacement of pavement lights and associated works.

**Reasons**

1. The Applicant is the freeholder of the subject property, a 6-storey block with commercial premises on the basement and ground floor and three residential flats on the four floors above. The first Respondent is the lessee of two of the residential flats and the second Respondent is the lessee of the other.
2. In May 2019 the Applicant identified emergency works needed in order to allow the gas supply to be reconnected to the flats:

- 1) Remove and cart away existing cast iron pavement lights.
  - 2) Replace two corroded steel lintels to pavement vaults with new pre-cast concrete lintels.
  - 3) Cut out and install two new padstones built into existing walls.
  - 4) Design, supply and install steel universal channels to frame pavement lights and support concrete structure with dry packing above or steel shims/mass concrete used where gap exceeds 50mm.
  - 5) Supply and fit new pavement lights with ventilation and drip trays to conform with current gas regulations.
  - 6) Make good retained areas of concrete slab at street level.
  - 7) Allow for temporary propping, hoarding, pavement licences and other preliminary costs required to undertake these works in full compliance with current regulations.
  - 8) Allow for structural engineer's costs relating to the design and installation of the above works.
  - 9) Existing concrete and filler beams to be removed and new in situ reinforced pavement lights to be installed by Luxcrete with steel supporting beams to their specification.
3. On 10<sup>th</sup> May 2019 the Applicant sent the lessees a letter intended as the first stage required under the statutory consultation provisions of section 20 of the Landlord and Tenant Act 1985 and the Service Charges (Consultation Requirements) (England) Regulations 2003, enclosing details of the works and inviting any representations. A further letter was sent on 14<sup>th</sup> May 2019 informing the lessees that the Applicant intended to seek dispensation under section 20ZA of the Act from compliance with the remaining statutory consultation process. Neither lessee provided any representations.
  4. The works were completed on 14<sup>th</sup> June 2019. The contractors, PLS London Ltd, provided an invoice dated 17<sup>th</sup> June 2019 in the total sum of £17,246.16.
  5. On 5<sup>th</sup> September 2019, the Tribunal received the Applicant's application for dispensation. The Tribunal then made directions on 10<sup>th</sup> September 2019. The directions required any lessee who opposed the application to complete a reply form and send a statement of their case. Again, neither lessee responded.
  6. The Tribunal was provided with the leases for all the flats. Under Schedule 3 of each of those leases, the Applicant is obliged to maintain the property and the lessees are obliged to pay a proportionate share of the costs incurred.
  7. 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.
  8. There was clearly a significant issue which needed to be addressed urgently. The Applicant kept the lessees informed and it is telling that neither of the lessees have sought to respond substantively to either the Applicant's letters or 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.

9. 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:** 8<sup>th</sup> October 2019