



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

**Case reference** : **LON/00AY/LDC/2023/0002**

**HMCTS code** : **P:PAPERREMOTE**

**Property** : **1-16 Edgar House, Wyvil Road, London,  
SW8 2SS**

**Applicant** : **Mayor and Burgesses of London  
Borough of Lambeth**

**Respondents** : **The leaseholders of the Property, as  
detailed in the application**

**Type of application** : **An Application for a Dispensation Order  
pursuant to section 20ZA of the  
Landlord and Tenant Act 1985**

**Tribunal member** : **JUDGE SHAW**

**Venue** : **PAPER DETERMINATION**

**Date of decision** : **29th June 2023**

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**DECISION**

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## **Covid-19 pandemic: description of hearing**

This has been a remote determination on the papers which has not been objected to by the parties. The form of remote hearing code and description was: P:PAPERREMOTE. A face-to-face hearing was not held because none of the parties requested such a hearing, and all the issues could be determined in a remote hearing, on paper. The documents submitted to the Tribunal will, as necessary, be referred to below, and all papers submitted have been perused and the contents considered. The order made is described at the end of these reasons.

## **Decision of the tribunal**

The tribunal determines that an order dispensing with the consultation provisions under section 20 of the Landlord and Tenant Act 1985, is appropriate in this case, and makes such order.

### **The application**

1. The application is dated 13<sup>th</sup> December 2022 and the Applicant seeks a determination pursuant to s.20ZA of the Landlord and Tenant Act 1985 (“the 1985 Act”).

### **The hearing**

2. The Applicant sought a Paper Hearing, which was, as stated above, not objected to by the Respondents.

### **The background**

3. The Applicant landlord has, applied for dispensation from the statutory consultation requirements in respect of works relating to a severely burst water main serving the property. The property is a 4 storey building comprising 16 flats, 8 of which are owned by long leaseholders. The applicant contends that water leakage, occurred suddenly and presented an emergency situation, in that the volume of water was very substantial and was cracking paving stone slabs. There was a real concern that if urgent action was not taken, further fractures could occur, and the property would be deprived of any proper water supply.
4. Contractors ( T Brown Limited) were instructed to survey the position and provide a quotation for the cost of the necessary works. They identified the necessary works ( see paragraph 7 of the Statement of Case) and their quotation for the work necessary and the estimated costs ( £8705.35) appears at exhibit “PB1” to the

applicants Statement of Case. The quotation was quickly approved by the Applicant on 14<sup>th</sup> November 2022. The work was completed on 4<sup>th</sup> December 2022.

5. The Applicant contends that it was not practical to give the full 30 day consultation period required under section 20 of the Act, given the urgency of the works, but nonetheless wrote to the leaseholders on 24<sup>th</sup> November, setting out the position fully, and appraising them of the abridgment of the notice period. In effect, 8 days notice was given, during which, so far as the Tribunal is aware, no objections or other observations were received.
6. The application has been supported by a full Statement of Claim, setting out the facts ( and some law) in detail. This was sent to all leaseholders as part of the overall documentation which was also made available in accordance with the Directions of the Tribunal issued on 31<sup>st</sup> March 2023. So far as the Tribunal is aware, none of the leaseholders raised any objections in respect of the short notice or the works generally.

### **The Issues**

7. The sole issue in this case is whether the tribunal is satisfied that it is reasonable for the tribunal to dispense with the consultation provisions (section 20 of the Act) which would otherwise have applied to the qualifying works at the property, as described below.

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

8. The tribunal determines that it is reasonable to dispense with the consultation provisions of section 20 of the Act, pursuant to section 20ZA thereof, and in relation to the roof works set out in the of Hamilton Roofing invoice referred to above. A dispensation order to this effect is therefore made, as set out below.

### **Reasons for the tribunal's decision**

9. As mentioned, Directions in this case were given on 31<sup>st</sup> March 2023. In those Directions, the Respondent leaseholders were given the opportunity both to request an oral hearing and to object to the application for dispensation.. No such request has been received by the Tribunal, nor has the Tribunal been notified of any objection from any of the leaseholder Respondents. The work was carried out

promptly after the report of leakage was made. The Tribunal is satisfied on the evidence before it that it was reasonable to act before formal statutory consultation, because the major fracture to the water main appeared suddenly, and the consequences of delay could have been serious for the Respondents. It is also satisfied that no prejudice has been caused to the Respondents, as described in the Supreme Court decision of *Daejan Investments v Benson 2013*.

## **10. DECISION**

For the reasons set out above, the tribunal determines that it is reasonable to dispense with the consultation provisions of section 20 of the Act, pursuant to section 20ZA thereof, and in relation to the burst water main works described above. A dispensation order to this effect is therefore made. It should be understood that nothing in this Decision precludes the entitlement of the Respondents to challenge the cost, quality, reasonableness or payability of service charges for these works, under the provisions of section 27A of the Act, should they have reason or the desire to do so.

**Name:** JUDGE SHAW

**Date:** 29<sup>th</sup> June 2023

### **Rights of appeal**

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the tribunal is required to notify the parties about any right of appeal they may have.

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 Tribunal at the regional office which has been dealing with the case.

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.

If the application is not made within the 28-day time limit, such application must include a request for 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.

The application for permission to appeal must identify the decision of the tribunal to which it relates (i.e. 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.