



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

**Case Reference** : **LON/00BK/LDC/2023/0127**

**Property** : **187-191 Sussex Gardens, London,  
W2 2RH**

**Applicant** : **Church Commissioners for  
England, Managed by Sussex  
Gardens (187-193) Limited,  
represented by Savills**

**Respondents** : **The leaseholders**

**Type of Application** : **Dispensation from consultation  
requirements under Landlord and  
Tenant Act 1985 section 20ZA**

**Tribunal Members** : **Judge Professor R Percival**

**Venue** : **Remote paper determination**

**Date of Decision** : **5 September 2023**

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**DECISION**

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## **Decisions of the tribunal**

- (1) The Tribunal, pursuant to section 20ZA of the Landlord and Tenant Act 1985 (“the 1985 Act”), grants retrospective dispensation from the consultation requirements in respect of the works the subject of the application.

## **Procedural**

1. The landlord submitted an application for dispensation from the consultation requirements in section 20 of the Landlord and Tenant Act 1985 (“the 1985 Act”) and the regulations thereunder, dated 10 May 2023.
2. The Tribunal gave directions on 12 June 2023. The directions provided for a form to be distributed to those who pay the service charge to allow them to object to or agree with the application, and, if objecting, to provide such further material as they sought to rely on. The application and directions was required to be sent to the leaseholders and any sublessees, and to be displayed as a notice in the common parts of the property. The deadline for return of the forms, to the Applicant and the Tribunal, was 31 July 2023.
3. The Applicant confirmed that the relevant documentation had been sent to the leaseholders.
4. No response from any of the leaseholders has been received by the Tribunal.

## **The property and the works**

5. The property is described as a mid-terrace converted block of 13 flats.
6. The works are the replacement of boiler room plant.
7. The Applicant received three quotations, and accepted the lowest (£179,500 plus VAT). There will also be additional fees for the management of the tender process etc.
8. In 2021, the Applicant commenced a consultation process under section 20 of the 1985 Act relating to the works. The consultation on the notice of intention took place, no responses being received. Progress ceased, however, due to lack of funds. The works were, nonetheless, planned to commence in the summer of 2023. However, in March 2023, the boiler and heat exchanger had failed. The Applicant therefore

proceeded with the works (which are now complete), and applied for dispensation.

### **Determination**

9. The relevant statutory provisions are sections 20 and 20ZA of the Landlord and Tenant Act 1983, and the Service Charges (Consultation etc)(England) Regulations 2003. They may be consulted at the following URLs respectively:  
<https://www.legislation.gov.uk/ukpga/1985/70>  
<https://www.legislation.gov.uk/uksi/2003/1987/contents/made>
10. The Tribunal is concerned solely with an application under section 20ZA of the 1985 Act to dispense with the consultation requirements under section 20 and the regulations.
11. The circumstances set out in the application indicate that it was urgent that the works be carried out as soon as possible. For this reason alone, I would grant dispensation.
12. Further, no response been received from any of the leaseholders objecting to the application. It is therefore clear that the leaseholders have not sought to claim any prejudice as a result of the consultation requirements not having been satisfied. Where that is the case, the Tribunal must, quite apart from any question of urgency, allow the application: *Daejan Investments Ltd v Benson and others* [2013] UKSC 14; [2013] 1 WLR 854.
13. This application relates solely to the granting of dispensation. If the leaseholders consider the cost of the works to be excessive or the quality of the workmanship poor, or if costs sought to be recovered through the service charge are otherwise not reasonably incurred, then it is open to them to apply to the Tribunal for a determination of those issues under section 27A of the Landlord and Tenant Act 1985.

### **Rights of appeal**

14. 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 London regional office.
15. The application for permission to appeal must arrive at the office within 28 days after the Tribunal sends written reasons for the decision to the person making the application.
16. If the application is not made within the 28 day time limit, the 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 these reason(s) and decide whether to allow the application for permission to appeal to proceed despite not being within the time limit.

17. The application for permission to appeal must identify the decision of the Tribunal to which it relates, 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.

**Name:** Judge Prof Richard Percival      **Date:** 5 September 2023