



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

**Case reference** : **LON/00AY/LDC/2023/0145**  
**P:Paperremote**

**Property** : **17 Trinity Gardens Brixton London  
SW9 8DP**

**Applicant** : **Southern Land Securities Limited**

**Representative** : **Together Property Management**

**Respondents** : **The leaseholders named on the  
schedule attached to the application**

**Type of application** : **To dispense with the consultation  
requirements under S.20 Landlord  
and Tenant Act 1985**

**Tribunal member** : **Mrs E Flint FRICS**

**Date and venue of  
determination** : **12 September 2023**  
**Remote on the papers**

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**DECISION**

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This has been a remote hearing on the papers which has been consented to by the Applicant and not objected to by the Respondent. A face to face hearing was not held because it was not practicable, no-one requested the same, and all the issues could be determined on the papers. The documents that I was referred to were in an electronic bundle, the contents of which I have recorded.

### **Decision of the tribunal**

- (1) The Tribunal grants dispensation from all of the consultation requirements under S.20 of the Landlord and Tenant Act 1985 in relation to unblocking the drains and carrying out consequential works to the lift and lift shaft.
- (2) The question of reasonableness of the works or cost was not included in this application, the sole purpose of which is to seek dispensation.

### **The Background**

1. The application under section 20ZA of the Landlord and Tenant Act 1985 (“the Act”) was made by Together Property Management on behalf of the applicants on 25 May 2023.
2. The application concerned urgent clearing of the drains, removing sewage from the lift shaft and repairing the lift.
3. Directions were issued on 22 June 2023 requiring the applicant to prepare bundles by 7 September 2023 to include statements
  - (i) Setting out the full grounds for the application, including all of the documents on which the landlord relies and copies of any replies from the tenants;
  - (ii) The Leaseholders were asked to confirm by 2 December 2022 whether or not they would give their consent to the application.
  - (iii) In the event that such agreement was not forthcoming the leaseholders were to state why they opposed the application; and provide copies of all documents to be relied upon.
4. On 13 July 2023 Together Property Management, on behalf of the applicant, confirmed that in accordance with the Directions the leaseholders had each been sent a copy of the S20ZA application form, the applicant’s statement of case, a copy of the Directions and reply form.
5. The Leaseholders were informed in the Directions issued by the Tribunal that the question of reasonableness of the works or cost was not included in this application, the sole purpose of which is to seek dispensation.

## **The Evidence**

6. 17 Trinity Gardens Brixton London SW9 8DP originally comprised commercial premises on the ground floor with offices above. In about 2023 the building was converted into nine flats with access being provided via a central staircase and a lift.
7. A few days before Christmas the managing agents were advised by one of the leaseholders that water could be heard entering the lift shaft. A plumber was asked to investigate. The drains were blocked and were backing up into the lift shaft. The lift had to be removed as part of the process of removing the sewage and deep cleaning the lift shaft. During the course of the work the lift car was damaged.
8. The work was urgent, consequently no consultation was undertaken. It was considered imperative that the lift should be returned to working order as quickly as possible. The cost of the drainage work and lift works exceeded the Section 20 limit.
9. None of the leaseholders had objected to the work.

## **The Decision**

10. The relevant test to be applied in an application for dispensation was set out by the Supreme Court in *Daejan Investments Ltd v Benson & Ors* [2013] UKSC 14 where it was held that the purpose of the section 20 consultation procedure was to protect tenants from paying for inappropriate works or paying an inappropriate amount. Dispensation should not result in prejudice to the tenant.
11. The Tribunal determines from the evidence before it that the applicant took all reasonable steps to undertake the repairs in a timely manner to ensure that the sewage was removed from the lift pit, the lift shaft given a deep clean and the lift returned to working order. There have been no objections from any leaseholder and no prejudice to the lessees has been demonstrated or asserted.
12. On the evidence before it, and in these circumstances, the Tribunal considers that the application for dispensation be granted.

**Name:** Evelyn Flint

**Date:** 12 September 2023

### **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 Tribunal 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 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.
4. 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.