



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

**Case reference** : **LON/00AG/LDC/2024/0660**

**Property** : **Highstone Mansions, 84 Camden Road,  
London NW1 9DY**

**Applicant** : **Battlehome Ltd**

**Representative** : **Ringley Law  
(Ref:30032211)**

**Respondent** : **Leaseholders of 63 flats at the Property**

**Representative** : **n/a**

**Type of application** : **To dispense with the requirement to  
consult lessees about major works,  
s.20ZA Landlord and Tenant Act 1985**

**Tribunal members** : **Judge Mark Jones**

**Venue** : **10 Alfred Place, London WC1E 7LR**

**Date of decision** : **11 February 2025**

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**DECISION**

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**Summary of the Decision**

- 1. The Applicant is granted dispensation under Section 20ZA of the Landlord and Tenant Act 1985 (“the 1985 Act”) from the consultation requirements imposed on the landlord by Section 20 of the 1985 Act in respect of works of repair to a flat roof at the Property, associated masonry repairs and internal repairs to Flat 25.**
- 2. The Tribunal does not impose any conditions on the grant of dispensation.**

- 3. The Tribunal has made no determination as to whether costs of the works are reasonable or payable.**

### **The Application**

4. The Applicant, described as the freehold management company, applied by application dated 19 November 2024 for dispensation under Section 20ZA of the 1985 Act from the consultation requirements imposed by Section 20 of the 1985 Act, in respect of emergency works undertaken at the Property which commenced in November 2024, comprising flat roof repairs including the erection of scaffolding, deck replacement, installation of a rubber roof covering and lead flashing, masonry repairs and internal repairs to Flat 25 within the Property, which had been subject to water penetration from above.
5. The property is described as purpose-built block containing 63 flats.
6. The Application is predicated on the basis of the works in issue being urgently required, where an ongoing leak through the flat roof in issue has caused mould within the Property and has caused leaks within Flat 25.
7. The cost of the works as initially quoted by the Applicant's selected contractors Rosco & Perlini was £35,388, inclusive of VAT.

### **Paper Determination**

8. In its application the Applicant stated that it would be content with a paper determination if the Tribunal considered it appropriate. By its directions made on 18 December 2024 the Tribunal allocated the case to the paper track (i.e. without giving directions for an oral hearing), but directed that any party had the right to request an oral hearing.
9. No requests for an oral hearing were made, and the matter is therefore determined on the papers in accordance with Rule 31 of the Tribunal's Procedural Rules.
10. Before making this determination, the papers received including the Applicant's hearing bundle comprising some 60 pages were considered, to ascertain whether the issues remained capable of determination without an oral hearing and it was decided that they were, in particular given the absence of any formal representations from any Respondent.

### **The Law**

11. The relevant section of the 1985 Act reads as follows:

*“S.20 ZA Consultation requirements:*

*Where an application is made to a Leasehold Valuation Tribunal for a determination to dispense with all or any of the consultation requirements in relation to any qualifying works or qualifying long-term agreement, the Tribunal may make the determination if satisfied that it is reasonable to dispense with the requirements.”*

12. The matter was examined in some detail by the Supreme Court in the case of *Daejan Investments Ltd v Benson* [2013] UKSC 14. In summary the Supreme Court noted the following:
  - a. The main question for the Tribunal when considering how to exercise its jurisdiction in accordance with section 20ZA is the real prejudice to the tenants flowing from the landlord’s breach of the consultation requirements.
  - b. The financial consequence to the landlord of not granting a dispensation is not a relevant factor. The nature of the landlord is not a relevant factor.
  - c. Dispensation should not be refused solely because the landlord seriously breached, or departed from, the consultation requirements.
  - d. The Tribunal has power to grant a dispensation as it thinks fit, provided that any terms are appropriate.
  - e. The Tribunal has power to impose a condition that the landlord pays the tenants’ reasonable costs (including surveyor and/or legal fees) incurred in connection with the landlord’s application under section 20ZA (1).
  - f. The legal burden of proof in relation to dispensation applications is on the landlord. The factual burden of identifying some “relevant” prejudice that they would or might have suffered is on the tenants.
  - g. The court considered that “relevant” prejudice should be given a narrow definition; it means whether non-compliance with the consultation requirements has led the landlord to incur costs in an unreasonable amount or to incur them in the provision of services, or in the carrying out of works, which fell below a reasonable standard, in other words whether the non-compliance has in that sense caused prejudice to the tenant.
  - h. The more serious and/or deliberate the landlord’s failure, the more readily a Tribunal would be likely to accept that the tenants had suffered prejudice.

- i. Once the tenants had shown a credible case for prejudice, the Tribunal should look to the landlord to rebut it.

### **Evidence**

13. The Applicant's case is summarised in paragraphs 4 to 7, above. It was augmented by a helpful witness statement dated 14 January 2025 from Ms Catherine Griffin of Ringley Chartered Surveyors, the Applicant's managing agents. This confirmed that emergency remedial works were required to the flat roof following an ongoing leak that had caused mould within the Property, in reliance upon a leak investigation report of Rosco & Perlini Limited, dated 31 October 2024, a copy of which was in the bundle.
14. The works were described in Ms Griffin's statement as being of an urgent nature, including flat roof repairs comprising the erection of scaffolding, deck replacement, installation of a rubber roof covering and lead flashing, with associated masonry repairs and internal repairs to Flat 25. By the date of her statement the works had been completed by Rosco & Perlini, at the quoted price of £35,388 inclusive of VAT.
15. Consultation with leaseholders has been minimal, owing to the urgency of identifying and remedying the defect causing the leaks.
16. Following the Tribunal's directions given on 18 December 2024, the Tribunal is satisfied that the application, a copy of the directions and the witness statement was sent to all leaseholders on 14 January 2025, and further that copies of those documents were displayed in the Property.
17. No Respondent provided a formal response to the application.

### **Determination**

18. Dispensation from the consultation requirements of S.20 of the 1985 Act may be given where the Tribunal is satisfied that it is reasonable to dispense with those requirements. Guidance on how such power may be exercised is provided by the leading case of *Daejan v Benson*, referred to above.
19. It is clear to the Tribunal that the works in question were required to rectify an emergency, viz. water penetration into the Property, causing damage, and in particular affecting Flat 25, whose 2 occupants were characterised as vulnerable. Having identified the defective flat roof covering as the source of the leak, the subsequent works were directed to addressing the defects in that roof, with ancillary related works of repair to masonry, and remedial works to rectify damage to Flat 25.

20. Where there was failure to comply with the statutory regime, the issue is simply whether by not being consulted the Respondents have suffered prejudice.
21. In the circumstances of this case the Tribunal finds nothing on the evidence to establish that the Respondents would suffer prejudice by the grant of dispensation from the statutory consultation procedure.
22. Accordingly, the Tribunal is satisfied that it is appropriate to dispense with the consultation requirements for the works in issue.
23. **The Tribunal therefore grants dispensation from the consultation requirements of S.20 Landlord and Tenant Act 1985 in respect of works of repair to a flat roof at the Property, associated masonry repairs and internal repairs to Flat 25.**
24. **The grant of dispensation is unconditional.**
25. **In granting dispensation, the Tribunal makes no determination as to whether any service charges are reasonable or payable. This determination does not affect the right of the Respondents to challenge the costs or standard of work if they so wish.**
26. **In accordance with paragraph 6 of the directions dated 18 December 2024, it is the Applicant's responsibility to serve a copy of the Tribunal's decision on all Respondent leaseholders to the application.**

**Name:** Judge Mark Jones

**Date:** 11 February 2025

### **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.

If the tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).