



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

**Case Reference** : **LON/00AW/LDC/2024/0655**

**Property** : **Marland House, 28 Sloane Street,  
London Sw16 9NL**

**Applicant** : **Cadogan Estates**

**Respondents** : **The leaseholders of the flats within the  
property**

**Type of  
Application** : **Application under section 20ZA to  
dispense with consultation  
requirements for a scheme of Major  
work**

**Tribunal Member** : **Judge Daley**

**Date and venue of  
Paper  
Determination** : **3 March 2025, at Property Tribunal 10  
Alfred Place,**

**Date of Decision** : **3 March 2025**

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**DECISION**

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## **Decision of the tribunal**

- i. The tribunal grants dispensation in respect of the replacement of the work undertaken to the communal boiler at the premises in the sum of £3948.00**
- ii. the Applicant shall within 56 days provide details of the estimated sum payable by each leaseholder and shall provide confirmation that the work has been completed.**
- iii. The Tribunal makes no order for the cost occasioned by the making of the application.**

## **The application**

1. By an application, made on 12.08.2024 the applicant sought dispensation under section 20ZA of the Landlord and Tenant Act 1985 from the consultation requirements imposed on the landlord by section 20 of the 1985 Act<sup>1</sup>.
2. The premises which are the subject of the application are a purpose-built block comprising 10 Residential Flats units with commercial unit on ground floor.

## **The Background**

3. This application sought an order for dispensation of the consultation requirements in respect of the premises, on the grounds that the commercial heating needs to be reinstated as it had been turned off due to a pipe leak.
4. The cost of the work was estimated to be in the sum of £3200.00 £3,948.00. The work was due to be carried out in November. Although the Tribunal was provided with an invoice in the sum of £3948.00, however, no further detailed information was provided of the work having been carried out.
5. Directions were given in writing on 12.12.2024, setting out the steps to be taken by the Applicant, (including serving the directions on the respondents) for the progress of this case.

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<sup>1</sup> See Service Charges (Consultation Requirements) (England) Regulations 2003 (SI2003/1987)

6. The Directions at paragraph D stated that -: "...The only issue for the tribunal is whether or not it is reasonable to dispense with the statutory consultation requirements. This application does not concern the issue of whether any service charge costs will be reasonable or payable."
7. The Applicant provided information that they had served a copy of these directions on all of the effected leaseholders on 17. 12. 24.
8. The Directions provided that any leaseholder who wished to object to the application should do so by 31 January 2025, by sending a pro forma to the Tribunal. No correspondence has been received from any of the leaseholders indicating that they object to the application for dispensation.
9. No request was made for a hearing, and the Tribunal having reviewed the papers are satisfied itself that the matter was suitable to be dealt with on the papers.

### **The Applicant's case**

10. The Applicant's case was as set out in the Application form which set out that the pipe which serviced the boiler had developed a leak and the heating had been turned off as the leak presented a risk of flooding in the basement where the boiler was located.
11. As a result, the leaseholders were left without heating to their flats. The urgency was caused by the need to reinstate the heating especially during the winter months.
12. In the Application, the Applicant's agents set out that it was their intention to use the existing Boiler and Heating Contractors CEM to avoid delays. The estimated cost of the work was £3290.00 plus VAT.

### **The Respondent's Case**

13. The Tribunal has at the date of this determination did not receive any written objection to the work or the costs of the work from the leaseholders.

### **The tribunal's decision and reason for the decision**

- I. The Tribunal having considered all of the information before it.
- II. The Tribunal was provided with a copy of the lease; however, it has not found it necessary at this stage to make findings as to whether on a proper construction of the lease the sums due are payable by the leaseholders.

- III. The Tribunal noted that its jurisdiction in this matter is limited to the scope as set out in Section 20ZA and as discussed by the court in *Daejan –v- Benson (2013)* which requires the Tribunal to decide on whether the leaseholders would if dispensation is granted suffer any prejudice.
- IV. The Tribunal has determined that although there is no information that any of the tenants have objected, or that they will suffer prejudice in not being consulted. The Tribunal accepts that it was necessary to reinstate the heating to the premises in a timely manner, and that given this there was merit in using the existing contractor.
- V. Although the Tribunal on the limited information before it, does not find that there is any prejudice to the dispensation being granted, The Tribunal would note that the limit in its jurisdiction has meant that it has not considered whether the work was within the scope of the repairing covenant in the lease, **As such nothing in the Tribunal’s decision deals with the reasonableness or payability under the lease of the work in issue.**
- VI. The leaseholders will of course enjoy the protection of section 27A of the 1985 Act so that if they consider the costs of the work are not reasonable (on the grounds set out above or any other ground) they may make an application to the tribunal for a determination of their liability to pay the resultant service charge.
- VII. **However, the Tribunal is satisfied that in all the circumstances in this application it is reasonable to grant dispensation (a) the Applicant shall within 56 days provide details of each leaseholders estimated share of the costs of the major works, and confirmation, if it has not already been provided that the works were satisfactorily completed.**
- VIII. No applications were made for costs before the tribunal.

**Judge** Daley

**Date:** 03.03.2025

## **Appendix of relevant legislation**

### **Landlord and Tenant Act 1985**

#### **Section 27A**

- (1) An application may be made to a leasehold valuation tribunal for a determination whether a service charge is payable and, if it is, as to -
  - (a) the person by whom it is payable,
  - (b) the person to whom it is payable,
  - (c) the amount which is payable,
  - (d) the date at or by which it is payable, and
  - (e) the manner in which it is payable.
- (2) Subsection (1) applies whether or not any payment has been made.
- (3) An application may also be made to a leasehold valuation tribunal for a determination whether, if costs were incurred for services, repairs, maintenance, improvements, insurance or management of any specified description, a service charge would be payable for the costs and, if it would, as to -
  - (a) the person by whom it would be payable,
  - (b) the person to whom it would be payable,
  - (c) the amount which would be payable,
  - (d) the date at or by which it would be payable, and
  - (e) the manner in which it would be payable.
- (4) No application under subsection (1) or (3) may be made in respect of a matter which -
  - (a) has been agreed or admitted by the tenant,
  - (b) has been, or is to be, referred to arbitration pursuant to a post-dispute arbitration agreement to which the tenant is a party,
  - (c) has been the subject of determination by a court, or
  - (d) has been the subject of determination by an arbitral tribunal pursuant to a post-dispute arbitration agreement.
- (5) But the tenant is not to be taken to have agreed or admitted any matter by reason only of having made any payment.

#### **Section 20**

- (1) Where this section applies to any qualifying works or qualifying long term agreement, the relevant contributions of tenants are limited in accordance with subsection (6) or (7) (or both) unless the consultation requirements have been either—
  - (a) complied with in relation to the works or agreement, or
  - (b) dispensed with in relation to the works or agreement by (or on appeal from) a leasehold valuation tribunal.

- (2) In this section "relevant contribution", in relation to a tenant and any works or agreement, is the amount which he may be required under the terms of his lease to contribute (by the payment of service charges) to relevant costs incurred on carrying out the works or under the agreement.
- (3) This section applies to qualifying works if relevant costs incurred on carrying out the works exceed an appropriate amount.
- (4) The Secretary of State may by regulations provide that this section applies to a qualifying long term agreement—
  - (a) if relevant costs incurred under the agreement exceed an appropriate amount, or
  - (b) if relevant costs incurred under the agreement during a period prescribed by the regulations exceed an appropriate amount.
- (5) An appropriate amount is an amount set by regulations made by the Secretary of State; and the regulations may make provision for either or both of the following to be an appropriate amount—
  - (a) an amount prescribed by, or determined in accordance with, the regulations, and
  - (b) an amount which results in the relevant contribution of any one or more tenants being an amount prescribed by, or determined in accordance with, the regulations.
- (6) Where an appropriate amount is set by virtue of paragraph (a) of subsection (5), the amount of the relevant costs incurred on carrying out the works or under the agreement which may be taken into account in determining the relevant contributions of tenants is limited to the appropriate amount.
- (7) Where an appropriate amount is set by virtue of paragraph (b) of that subsection, the amount of the relevant contribution of the tenant, or each of the tenants, whose relevant contribution would otherwise exceed the amount prescribed by, or determined in accordance with, the regulations is limited to the amount so prescribed or determined.]

**1. S20ZA Consultation requirements: supplementary**

- (1) 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.
- (2) In section 20 and this section—

"qualifying works" means works on a building or any other premises,  
and

- "qualifying long term agreement" means (subject to subsection (3)) an agreement entered into, by or on behalf of the landlord or a superior landlord, for a term of more than twelve months.
- (3) The Secretary of State may by regulations provide that an agreement is not a qualifying long term agreement—
    - (a) if it is an agreement of a description prescribed by the regulations, or
    - (b) in any circumstances so prescribed.
  - (4) In section 20 and this section "the consultation requirements" means requirements prescribed by regulations made by the Secretary of State.
  - (5) Regulations under subsection (4) may in particular include provision requiring the landlord—
    - (a) to provide details of proposed works or agreements to tenants or the Recognised tenants' association representing them,
    - (b) to obtain estimates for proposed works or agreements,
    - (c) to invite tenants or the recognised tenants' association to propose the names of persons from whom the landlord should try to obtain other estimates,
    - (d) to have regard to observations made by tenants or the recognised tenants' association in relation to proposed works or agreements and estimates, and
    - (e) to give reasons in prescribed circumstances for carrying out works or entering into agreements.
  - (6) Regulations under section 20 or this section—
    - (a) may make provision generally or only in relation to specific cases, and
    - (b) may make different provision for different purposes.
  - (7) Regulations under section 20 or this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament. [...]
2. The relevant Regulations referred to in section 20 are those set out in Part 2 of Schedule 4 of the Service Charge (Consultation etc) (England) Regulations 2003.