FIRST-TIER TRIBUNAL
PROPERTY CHAMBER (RESIDENTIAL PROPERTY)

Case reference	:	**LON/00AM/LDC/2024/0682**
Property	:	**Northiam Street Estates over Earlston Grove, Victoria Park Road, London, E9 7HX**
Applicant	:	**Northern Management Limited**
Representative	:	**Ringley Law, Solicitors**
Respondents	:	**The leaseholders, as listed in the application form**
Representative	:	**N/A**
Type of application	:	**For dispensation under section 20ZA of the Landlord & Tenant Act 1985**
Tribunal members	:	**Tribunal Judge I Mohabir**
Date of decision	:	**13 May 2025**

DECISION

Introduction

1. The Applicant seeks an order pursuant to s.20ZA of the Landlord and Tenant Act 1985 ("the Act") for *retrospective* dispensation with the consultation requirements in respect of remedial roof works at the property known as Northiam Street Estates over Earlston Grove, Victoria Park Road, London, E9 7HX ("the property").

2. The Applicant is the residents' management company for the property and the Respondents are the long leaseholders.

3. The property is comprised of eight purpose-built blocks at the site and some freehold houses. All of the blocks of flats are required to contribute towards the works, whereas the freehold houses do not.

4. It is the Applicant's case that in or about August 2024 emergency roof repair works were completed to one block (19-26 Earlston Grove) in late August by Rosco and Perlini. This included erecting scaffolding and a constructing a mobile tower, top of gable wall removal and waste disposal. These works cost £7,104 including VAT. Further works were then completed to the roof including the installation of safety barriers, retrofit wall ties, lead step flashing and aluminium wall capping. These works were done in early September 2024 and cost £14,760 including VAT. The total cost of the works (including a 10% contingency fee) is £24,050.40.

5. It is the Applicant's case that the remedial roof works were urgent because the roof structure was damaged, with roof tiles falling off, which posed a health and safety risk to persons below.

6. The application to the Tribunal is dated 7 October 2024. On 28 February 2025, the Tribunal issued Directions requiring the Applicant to serve the Respondents with a copy of the application. This was done on 7 March 2025. The Respondents were directed to respond to the application stating whether they objected to it in any way.

7. None of the Respondents have objected to the application.

Relevant Law

8. This is set out in the Appendix annexed hereto.

Decision

9. As directed, the Tribunal's determination "on the papers" took place on 13 May 2025 and was based solely on the documentary evidence filed by the Applicant. As stated earlier, no objections had been received from any of the Respondents nor had they filed any evidence.

10. The relevant test to the applied in an application such as this has been set out in the Supreme Court decision in ***Daejan Investments Ltd v Benson & Ors*** [2013] UKSC 14 where it was held that the purpose of

the consultation requirements imposed by section 20 of the Act was to ensure that tenants were protected from paying for inappropriate works or paying more than was appropriate. In other words, a tenant should suffer no prejudice in this way.

11. The issue before the Tribunal was whether dispensation should be granted in relation to the requirement to carry out statutory consultation with the leaseholders regarding the overall roof works. As stated in the directions order, the Tribunal is not concerned about the actual cost that has been incurred.

12. The Tribunal granted the application for the following main reasons:

    (a) The Tribunal was satisfied that the Respondents had been served with the application and the evidence in support and there has been no objection from any of them. The Tribunal attached significant weight to this.

    (c) The Tribunal was satisfied that any delay incurred by the Applicant having to carry out statutory consultation would have resulted in a continuing serious health and safety risk to not only the residents of the block and estate, but also to third parties.

    (c) Importantly, the real prejudice to the Respondents would be in the cost of the works and they have the statutory protection of section 19 of the Act, which preserves their right to challenge the actual costs incurred by making a separate service charge application under section 27A of the Act.

13. The Tribunal, therefore, concluded that the Respondents were not being prejudiced by the Applicant's failure to consult, and the application was granted as sought.

14. It should be noted that in granting this part of the application, the Tribunal makes no finding that the scope and cost of the repairs are reasonable.

Name:	Tribunal Judge I Mohabir	**Date:**	13 May 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).

Appendix of relevant legislation

Landlord and Tenant Act 1985 (as amended)

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) the appropriate 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.

Section 20ZA

(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.