



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

Case reference	:	LON/00AW/LDC/2024/0675
Property	:	Shrewsbury House, 42 Cheyne Walk, London SW3 5LN
Applicant	:	SH42CW Limited
Representative	:	Edward Knight, Principia Estate & Asset Management
Respondent	:	The 52 leaseholders at the Property as set out on the list appended to the application
Representative	:	none
Type of application	:	For the determination of the liability to pay service charges under section 27A of the Landlord and Tenant Act 1985
Tribunal members	:	Judge Mark Jones
Venue	:	10 Alfred Place, London WC1E 7LR
Date of decision	:	30 June 2025

DECISION

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 statutory consultation requirements imposed on the landlord in respect of urgent works to replace communal Crittal windows.**
- 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.

Background

1. The Applicant landlord applied by notice dated 03 December 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 works to replace windows within the communal areas of the Property.
2. The application has been determined on the papers. A face-to-face hearing was not held, where the Applicant indicated in its application that it was content with a paper determination, the Tribunal directed that it was suitable for such a disposal in its sequential directions dated 29 January, 24 February and 24 April 2025, and no objection was received from any Respondent. The relevant documents were contained in a bundle numbering some 46 pp., augmented by a separate list identifying the individual Respondents, which accompanied the original application.
3. The Applicant is the freehold owner of the Property, which comprises 52 flats located within 4 conjoined, purpose-built blocks within a building said to date back to 1519. The Respondents are the individual lessees of the flats, and a number of them are shareholders in the Applicant company.
4. As part of an ongoing program of repair and maintenance, the Applicant proposes to replace a number of windows situated in the communal parts of the Property, which among other issues will increase energy efficiency. For the anticipated works, the Applicant obtained 4 quotations for supply and installation from Crittall Installation Services, each dated 17 October 2024, in the following VAT inclusive sums:

	£
Block 1-11	29,967.45
Block 15-23	10,704.69
Block 25-33	10,704.69
Block 36-52	<u>13,264.49</u>
	<u>64,641.32</u>

5. The proposed works are subject to consultation requirements under s.20 of the 1985 Act and the Service Charges (Consultation Requirements) (England) Regulations 2003, where the anticipated costs when apportioned between the flats within the Property will exceed £250 per

flat, and the Applicant seeks dispensation from those requirements under s.20ZA of that Act.

The Law

6. The relevant section of the 1985 Act provides 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.”

7. The issues arising on such applications were considered in detail by the Supreme Court in the case of *Daejan Investments Ltd v Benson* [2013] UKSC 14; [2013] 1 WLR 854. In summary, the Court observed as follows:
- 7.1 Sections 19-20 of the 1985 Act are directed to ensuring that lessees of flats are not required to pay for unnecessary services, for services provided to a defective standard, or to pay more than necessary for services which have otherwise been provided to an acceptable standard [§42].
- 7.2 Accordingly, the principal question for the Tribunal when considering how to exercise its jurisdiction in accordance with section 20ZA is the extent to which lessees were prejudiced by any failure of the landlord to comply with the consultation requirements [§44].
- 7.3 Where the extent, quality and cost of the works were unaffected by the landlord’s failure to comply with the consultation requirements, an unconditional dispensation should normally be granted [§45].
- 7.4 Dispensation should not be refused solely because the landlord seriously breached, or departed from, the consultation requirements. Adherence to the requirements is a means to an end, not an end in itself, and the dispensing jurisdiction is not a punitive or exemplary exercise. The requirements leave untouched the fact that it is the landlord who decides what works need to be done, when they are to be done, who they are to be done by and what amount is to be paid for them [§46].

- 7.5 The financial consequence to the landlord of not granting a dispensation, and the nature of the landlord are not relevant factors [§51].
- 7.6 The Tribunal has power to grant a dispensation as it thinks fit, provided that any terms it may see fit to impose are appropriate [§§54, 58, 59]. In this regard, and by way of example, 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) [§68].
- 7.7 The only prejudice of which a lessee may legitimately complain is that which they would not have suffered if the requirements had been fully complied with, but which they would suffer if unconditional dispensation were granted [§65].
- 7.8 While the legal burden of proof in establishing that a dispensation application ought to be granted is borne by the landlord, the factual burden of identifying some "relevant" prejudice that they would or might have suffered is on the lessees [§67].
- 7.9 Given that the landlord has failed to comply with statutory requirements, the Tribunal should be sympathetic to the lessees. If the lessees raise a credible claim of prejudice, the Tribunal should look to the landlord to rebut it [§68].
- 7.10 The lessees' complaint will normally be that they have not had the opportunity to make representations about the works proposed by the landlord, in which case the lessees should identify what they would have said if they had had the opportunity [§69].

Analysis

- 8. The Applicant has obtained quotations for the proposed works from Crittall Installation Services, which has previously undertaken window replacement works in other areas of the Property, part of which was the subject of a dispensation application previously granted by Judge Nicol on 4 September 2023 (Case ref. LON/00AW/LDC/2023/0121). It is to be inferred that such works were effected to a good standard, where that entity is said to be the preference of both the Applicant and lessees within the Property, and the proposed installations will be accompanied by a 10-year warranty.
- 9. It is not apparent that the Applicant approached any other installation business seeking alternative quotes for the proposed work; it would appear that it approached Crittall Installation Services in circumstances

where it is aware of the quality of the work undertaken, against the circumstances summarised above.

10. The Applicant seeks dispensation from the consultation requirements where it contends that the situation is urgent, where the quotations that have been provided are time-limited, and the Applicant wishes to contract for the works before the price may rise. In this regard, the Tribunal notes that the 4 quotations each dated 17 October 2024 stated on their faces that they were valid for 30 days, which expired prior to the application being made, but nevertheless the grounds relied upon by the Applicant are that it wishes to commission the proposed works for the price currently available.
11. The usual manner in which the best price is obtained for major works is to engage in a tendering process in which a number of contractors are invited to provide competing quotations for the proposed work. It appears uncertain, on the evidence, that Crittal Installation Services is the only possible contractor, and indeed that the proposed works are sufficiently urgent that it would not have been possible to comply with the statutory consultation requirements.
12. However, none of the lessees have objected to the application for dispensation, either to the Applicant or to the Tribunal, nor have any of the Respondents demonstrated any basis for concluding that they would be prejudiced by the lack of consultation, within the meaning of the concept explained by the Supreme Court in *Daejan*.
13. The Tribunal's role on the present application is limited to determining only whether the statutory consultation requirements may be dispensed with. This does not concern the issue of whether any service charges, including the anticipated and actual costs of replacement of the windows, will be reasonable or payable.
14. Where no objection has been raised, and where there is no evidence of any prejudice to the lessees, the Tribunal determines that it is reasonable to dispense with the statutory consultation requirements.

Name: Judge Mark Jones

Date: 30 June 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).