



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

Case Reference : **MAN/ooFF/LDC/2024/0046**

Property : **Woodsmill Quay Skeldergate,
York YO1 6DX**

Applicant : **Woodsmill Limited**

Representative : **Watson**

Respondents : **The Residential Long Leaseholders**

Type of Application : **Landlord & Tenant Act 1985 – Section
20ZA**

Tribunal Members : **Judge R Anderson
Mr W Reynolds**

Date of Hearing: **15 May 2025**

Date of Decision : **9 June 2025**

DECISION

Decision: Dispensation is granted unconditionally.

Factual Background

1. In this case the Applicant seeks dispensation from the consultation requirements provided for by section 20 of the Landlord and Tenant Act 1985.
2. The Applicant is Woodsmill Limited (“The Applicant”).
3. The necessary Respondents to the application are the leaseholders of the premises affected by the application which is Woodsmill Quay, Skeldergate, York YO1 6DX (“The premises”).
4. The property is a converted mill with 2 separate purpose-built blocks containing 39 long leasehold apartments. A sample copy of a lease was included in the Statement of Case and it is not in dispute that the Applicant is entitled to charge the Respondents a service charge.

The Application

5. The Applicant has applied for dispensation from the statutory consultation requirements in respect of the replacement of the foul water pumps which serve the premises, the cost of the replacement was £16,654 (“the Works”). The Applicants statement of case is that the sewage pumps at the development require urgent replacement as they keep tripping out, causing sewage to seep into the courtyard which poses significant health hazards and environmental risks.

The Responses

6. No response has been received from any of the Respondents.

The law on dispensation

7. The statutory basis for the application is found in s20ZA Landlord and Tenant Act 1985:

20ZA Consultation requirements: supplementary

(1) Where an application is made to [the appropriate 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.

8. The leading judicial guidance in how to apply the tribunal's discretion is set out in the supreme court decision of *Daejan Investments v Benson* [2013] UKSC 14 and it worthwhile summarizing the facts and rationale in that case.
9. The Supreme Court, allowing the appeal (Lord Hope of Craighead DPSC and Lord Wilson JSC dissenting), held that:
 - The correct legal test on an application to the Tribunal for dispensation is: “Would the flat owners suffer any relevant prejudice, and if so, what relevant prejudice, as a result of the landlord's failure to comply with the requirements?”

- *The purpose of the consultation procedure is to ensure leaseholders are protected from paying for inappropriate works or paying more than would be appropriate.*
- *In considering applications for dispensation the Tribunal should focus on whether the leaseholders were prejudiced in either respect by the landlord's failure to comply. The Tribunal has the power to grant dispensation on appropriate terms and can impose conditions.*
- *The factual burden of identifying some relevant prejudice is on the leaseholders. Once they have shown a credible case for prejudice, the Tribunal should look to the landlord to rebut it.*
- *The onus is on the leaseholders to establish what steps they would have taken had the breach not happened and in what way their rights under (b) above have been prejudiced as a consequence.*

10. Accordingly, the Tribunal had to consider whether there was any prejudice that may have arisen out of the conduct of the applicant and whether it was reasonable for the Tribunal to grant dispensation following the guidance set out above and, if so, whether any conditions should be applied to that dispensation.

Determination

9. On its face the application has merit. It is clearly necessary to carry out the works urgently. There was no evidence of prejudice of the type envisaged in Daejan being suffered by the leaseholders. Accordingly, the tribunal agrees to give dispensation unconditionally in relation to the application. **It is emphasised again that the dispensation does not affect the leaseholders' ability to challenge the service charges pursuant to s.27A Landlord and Tenant Act 1985.**

Judge Anderson
9 June 2025

Annex

Respondent Leaseholders

OC Properties York Limited	Made By Cooper Limited
Barkworth Estates Ltd	Mrs K M Harpin
Mr A M Hide & Ms F H Kaye	Mr C R O Pick
Midnight Misty Limited	Mr A M Hide
Mrs C A Naylor & Mrs E J Parker	Mr M F & Mrs M Drummond
Mr J E Wright	Ms A J Wheller
Dr D & Dr J L R Hayward	Messrs J E, A F & M R Ellerker
Miss S Begum	Mr C J Selley
Mr D P B Clough & Ms C V Dunford	Mr S G Davis
Mr N, Mrs E & Mr J Redelinghuys	Ms J H Lyall
Mr N K & Mrs S E Boyle	Katona Enterprises Ltd
Mr D S Webster	Ms E Bentley-Wennhall
Mr A A Gayle & Mrs S M Gayle	Mr P J Smith & Ms B A Hadfield
Ms J D Jach	Mr S Hall
Mr D J Craven	
Mr P D Jacques	
Mr P J Maxwell	
Mr N A & Mrs F I McClure	
Mrs K A Morgan	
Mr A J Carter	
Mr S E Martin & Miss G A Holt	
Mr N Watson	
Mr S & Mrs J & Ms K & Ms A Sadler	

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 should be made on Form RP PTA available at:

<https://www.gov.uk/government/publications/form-rp-pta-application-for-permission-to-appeal-a-decision-to-the-upper-tribunal-lands-chamber>

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).