



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

Case reference	: BIR/47UD/LDC/2024/0623
Properties	: Flats 1, 2, 3, 4, 5 Chestnut Views 70 Bromsgrove Road Redditch Worcestershire B97 4R
Applicant	: Long Term Reservations (Torquay) Limited
Representative	: Principle Estate Management LLP
Respondents	: Mr G Foldhazi and Ms M Molnarova (1) M E Kemmy (2) Mr B Clift and Mrs A W Clift (3) Kathryn Mary Lowe (4) P M Rowberry (5)
Representatives	: None
Type of application	: An application under section 20ZA of the Landlord and Tenant Act 1985 for the dispensation of the consultation requirements in respect of qualifying works
Tribunal member	: Judge C Goodall Regional Surveyor V Ward FRICS
Date and place of hearing	: Paper determination
Date of decision	: 10 November 2025

DECISION

Background

1. The Applicant has applied for a decision by this Tribunal that it may dispense with the consultation requirements contained in section 20 of the Landlord and Tenant Act 1985 and the Service Charges (Consultation Requirements) (England) Regulations 2003 in respect of works to remove and replace the flat-roofed section directly above Flat 2 in order to ensure that the flat becomes and remains watertight (“the Works”) in the building in which the Properties referred to above are situated. These legal provisions are explained in more detail below.
2. Unless there is full compliance with the consultation requirements, or a dispensation application is granted, the Applicant is prevented by law from recovering more than £250.00 from each Respondent in respect of the cost of the Works (see below). Therefore, it has made the Application, which was dated 26 November 2024.
3. Directions were issued on 23 December 2024 requiring the Applicant (amongst other requirements) to serve all the Respondents with full details of the Works and explain why it had decided to seek dispensation rather than carry out a full consultation.
4. The Respondents were all given an opportunity to respond to the Application and make their views known as to whether the Tribunal should grant it. None have responded.
5. The Application has been referred to the Tribunal for determination. This is the decision on the Application.

Law

6. The Landlord and Tenant Act 1985 (as amended) imposes statutory controls over the amount of service charge that can be charged to long leaseholders. If a service charge is a “relevant cost” under section 18, then the costs incurred can only be taken into account in the service charge if they are reasonably incurred or works carried out are of a reasonable standard (section 19).
7. Section 20 imposes an additional control. It limits the leaseholder’s contribution towards a service charge to £250 for works, unless “consultation requirements” have been either complied with or dispensed with. There are thus two options for a person seeking to collect a service charge for works on the building or other premises costing more than £250. The two options are: comply with “consultation requirements” or obtain dispensation from them. Either option is available.
8. To comply with consultation requirements a person collecting a service charge has to follow procedures set out in the Service Charges (Consultation Requirements) (England) Regulations 2003 (see section 20ZA(4)).

9. To obtain dispensation, an application has to be made to this Tribunal. We may grant it if we are satisfied that it is reasonable to dispense with the consultation requirements (section 20ZA(1) of the Act).
10. The Tribunal's role in an application under section 20ZA is therefore not to decide whether it would be reasonable to carry out the works or enter into the long term agreement, but to decide whether it would be reasonable to dispense with the consultation requirements.
11. The Supreme Court case of *Daejan Investments Ltd v Benson* [2013] UKSC 14; [2013] 1 WLR 854 (hereafter *Daejan*) sets out the current authoritative jurisprudence on section 20ZA. This case is binding on the Tribunal. *Daejan* requires the Tribunal to focus on the extent to which the leaseholders would be prejudiced if the landlord did not consult under the consultation regulations. It is for the landlord to satisfy the Tribunal that it is reasonable to dispense with the consultation requirements; if so, it is for the leaseholders to establish that there is some relevant prejudice which they would or might suffer, and for the landlord then to rebut that case.
12. The Tribunal may impose conditions on the grant of dispensation.
13. The general approach to be adopted by the Tribunal, following *Daejan*, has been summarised in paragraph 17 of the judgement of His Honour Judge Stuart Bridge in *Aster Communities v Chapman* [2020] UKUT 0177 (LC) as follows:

“The exercise of the jurisdiction to dispense with the consultation requirements stands or falls on the issue of prejudice. If the tenants fail to establish prejudice, the tribunal must grant dispensation, and in such circumstances dispensation may well be unconditional, although the tribunal may impose a condition that the landlord pay any costs reasonably incurred by the tenants in resisting the application. If the tenants succeed in proving prejudice, the tribunal may refuse dispensation, even on robust conditions, although it is more likely that conditional dispensation will be granted, the conditions being set to compensate the tenants for the prejudice they have suffered.”

The Application

14. The essence of the Application is that the flat roof above flat 2 had failed and the Applicant therefore had a responsibility under the leases of the Properties to repair it (see paragraph 1(ii) of the Fifth Schedule of the flat leases). The Applicant's case is that there was already water ingress and the repair was therefore urgent.
15. Quotes for repair were requested from three contractors on or around 7 November 2024. At the same time, the Applicant served a consultation

notice bringing the issue of consultation to the attention of the Respondents, but also applied for retrospective dispensation from consultation in view of the fact that the works were urgent.

16. In fact, the lowest quote was accepted, for the sum of £6,420.00 (incl VAT), and the work started on 29 November 2024 and was completed on or around 9 December 2024.
17. The rationale for the Application was therefore that seeking dispensation was a much faster process than carrying out a full consultation, and the urgent need for repair to the roof justified the Application.
18. No Respondent has objected to the Application.

Discussion and decision

19. The Tribunal accepts the rationale for making the Application. The grant of dispensation is likely to be at a lower cost and obtained more speedily than carrying out the processes of full compliance with section 20 of the Act. It is clear that a speedy repair was required because of the water ingress into Flat 2. No Respondent has claimed to have suffered or be likely to suffer any prejudice as a result of the grant of the Application.
20. We **determine** that the Application is granted. The Applicant may dispense with the consultation requirements contained in section 20 of the Act in respect of the carrying out of the Works.
21. This decision does not operate as a determination that any costs charged to any Respondent for the repair costs are or would be reasonably incurred. They may well have been, but that is an entirely different issue, and Respondent's remain at liberty to challenge such costs under section 27A of the Act in the future should they wish.

Appeal

22. Any appeal against this decision must be made to the Upper Tribunal (Lands Chamber). Prior to making such an appeal the party appealing must apply, in writing, to this Tribunal for permission to appeal within 28 days of the date of issue of this decision (or, if applicable, within 28 days of any decision on a review or application to set aside) identifying the decision to which the appeal relates, stating the grounds on which that party intends to rely in the appeal, and stating the result sought by the party making the application.

Judge C Goodall
Chair
First-tier Tribunal (Property Chamber)