FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case Reference	**:**	**LON/00AW/LDC/2025/0694**
Property	**:**	**1-49 Burton Court, Franklin Row, London, SW3 4XT**
Applicant	**:**	**Franklins Row Limited**
Representative	**:**	**Faraday Property Management, Managing Agent**
Respondent	**:**	**Leaseholders of 1-49 Burton Court, Franklin Row, London, SW3 4XT**
Representative	**:**	**N/A**
Type of Application	**:**	**To dispense with the requirement to consult lessees about major works section 20ZA of the Landlord and Tenant Act 1985**
Tribunal	**:**	**Tribunal Judge Mohabir**
Date of Decision	**:**	**15 September 2025**

DECISION

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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 dry rot works at the property known as 1-49 Burton Court, Franklin Row, London, SW3 4XT ("the property").

2. The property is described as being a red bricked island site mansion block built in approx 1897 split into 3 adjoining attached blocks, consisting of 50 flats.

3. The Applicant is the landlord of the property and the managing agent appointed by it is Faraday Property Management. The Respondents are the long leaseholders of the residential flats in the building.

4. It is the Applicant's case that, due to several flats having ongoing leaks between them and the leaks being unattended and or hidden leaks , a dangerous dry rot outbreak was noticed in one of the flats.

5. As a consequence, the Applicant instructed Strand Preservation Limited ("Strand") to carry out an inpsection to ascertain the extent of the dry rot infestation. In its initial report dated 14 November 2024, Strand made findings limited to Flat 40 in the building. However, following a re-inspection on 26 February 2025, Strand found that the dry rot infestation had extended to Flats 42 and 38, which are above and below Flat 40.

6. The Applicant submitted that the dry rot infestation found in the 3 flats made them uninhabitable and remedial work was required as a matter of urgency. The emergency nature of the works precluded the Applicant from obtaining several quotes and only one contractor was approached to do the works. The costs are currently estimated at £54,000.00 plus professional and other fees. This figure could rise considerably if further dry rot outbreaks are found in other adjacent flats.

7. Apparently, a letter was sent on 05 february 2025 to all lessees before the works commenced confirming that investiagtions and works of an emeregncy nature would have to commence shortly. The Tribunal was not told if there was any response from the lessees to the letter.

8. By an application dated 26 March 2025, the Applicant applied seeking retrospective dispensation for the remedial dry rot works. On 13 June 2025, the Tribunal issued amended Directions requiring the Applicant to serve the Respondents with a copy of the application by 30 June 2025, which apparently was done. The Respondents were directed to respond to the application stating whether they objected to it in any way.

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

Relevant Law

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

Decision

11. As directed, the Tribunal's determination "on the papers" took place on 15 September 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.

12. 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.

13. 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 remedial fire detection works. The Tribunal is not concerned about the actual cost that has been incurred.

14. 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. In other words, this is an unopposed application and the evidence presented to the Tribunal is unchallenged by the Respondents.

    (b) The Tribunal was satisfied that the remedial dry rot works were required on an urgent basis. The unchallenged evidence was that the dry rot infestation had rendered 3 flats uninhabitable. Therefore, the loss of amenity to the occupants of those flats was significant, which would have continued for some months if statutory consultation was carried out. Indeed, as the Tribunal understands it, the remedial works may still be ongoing with the possibility of the scope of the work increasing if the dry rot infestation is found to be more extensive than was initially discovered. The potential for any loss of amenity to other lessees is a further consideration.

    (c) Importantly, the real prejudice to the Respondents would be in the cost of the work 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.

15. 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.

16. 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 Mohabir **Date:** 15 September 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.