



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

Case reference : **HAV/21UD/LDC/2025/0751**

Property : **9 Grosvenor Gardens, St Leonards On Sea, East Sussex, TN38 0AE**

Applicant : **9 Grosvenor Gardens Freehold Company Ltd.**

Representative : **Oakfield PM Limited**

Respondent : **Various leaseholders;
Mr I Barraclough Flat 1
Ms A Clifford Flat 2
Ms P Dodd Flat 3
Ms L Jones Flat 4
Mr A Lines Flat 5**

Representative : **None**

Type of application : **To dispense with the requirements to consult lessees about major works section 20ZA of the Landlord and Tenant Act 1985.**

Tribunal members : **R Waterhouse FRICS**

Venue : **Havant Justice Centre, Elmleigh Road, Havant, Portsmouth.**

Date of decision : **08 January 2026**

DECISION

Summary of the Decision

1. The Applicant is granted dispensation under Section 20ZA of the Landlord and Tenant Act 1985 from the consultation requirements imposed on the landlord by Section 20 of the Landlord and Tenant Act 1985 in respect of major works, being installation of a fire alarm and emergency lighting.

The application and the history of the case

2. The Applicant applied by an application received 11 November 2025 for dispensation under Section 20ZA of the Landlord and Tenant Act 1985 (“the Act”) from the consultation requirements imposed by Section 20 of the Act in respect of major works of installation of a fire alarm and emergency lighting system, which is said to be required under the Regulatory Reform (Fire Safety) Order 2005 as 9 Grosvenor Gardens is a converted property. Further it is stated that three quotes have been obtained in October 2025, and that it is hoped dispensation can be granted to enable the works to be completed quickly to ensure the building is compliant with Fire Safety Regulations.

3. The only issue for the Tribunal in this application is whether or not it is reasonable to dispense with the statutory consultation requirements. This application is not about the proposed costs of the works, and whether they are recoverable from the leaseholders as service charges or the possible application or effect of the Building Safety Act 2022.

4. Directions were issued on 17 November 2025 setting a timetable for the exchange of documents for the application for dispensation. The determination to be made on the papers unless any party objected within 7 days of the receipt of the Directions. No such objection has been received.

5. The property is described as a brick building arranged over 4 floors dating from the 1900s and converted into 5 flats in 1980s, there is one flat per floor, and one in the basement that has its own entrance.

6. The Tribunal is in possession of an email received from Bethany Keane Senior Property Manager, of Oakfield confirming that as of 28 November 2025 no objections to the dispensation application had been received.

7. The Tribunal also has received 1 December 2025 an email from Alexandra Clifford stating that they are happy for Oakfields to act for them.

The Law

8. Section 20 of the Landlord and Tenant Act 1985 (“the Act”) and the related Regulations provide that where the lessor undertakes qualifying works with a cost of more than £250 per lease the relevant contribution of each lessee (jointly where more than one under any given lease) will be limited to that sum unless the required consultations have been undertaken or the requirement has been dispensed with by the Tribunal. An application may be made retrospectively.

9. Section 20ZA provides that on an application to dispense with any or all of the consultation requirements, the Tribunal may make a determination

granting such dispensation “if satisfied that it is reasonable to dispense with the requirements”.

10. The appropriate approach to be taken by the Tribunal in the exercise of its discretion was considered by the Supreme Court in the case of Daejan Investment Limited v Benson et al [2013] UKSC 14.

11. The leading judgment of Lord Neuberger explained that a Tribunal should focus on the question of whether the lessee will be or had been prejudiced in either paying where that was not appropriate or in paying more than appropriate because the failure of the lessor to comply with the regulations. The requirements were held to give practical effect to those two objectives and were “a means to an end, not an end in themselves”.

12. The factual burden of demonstrating prejudice falls on the lessee. The lessee must identify what would have been said if able to engage in a consultation process. If the lessee advances a credible case for having been prejudiced, the lessor must rebut it. The Tribunal should be sympathetic to the lessee(s).

13. Where the extent, quality and cost of the works were in no way affected by the lessor’s failure to comply, Lord Neuberger said as follows: “I find it hard to see why the dispensation should not be granted (at least in the absence of some very good reason): in such a case the tenants would be in precisely the position that the legislation intended them to be- i.e. as if the requirements had been complied with.”

14. The “main, indeed normally, the sole question”, as described by Lord Neuberger, for the Tribunal to determine is therefore whether, or not, the lessee will be or has been caused relevant prejudice by a failure of the Applicant to undertake the consultation prior to the major works and so whether dispensation in respect of that should be granted.

15. The question is one of the reasonableness of dispensing with the process of consultation provided for in the Act, not one of the reasonableness of the charges of works arising or which have arisen.

16. If dispensation is granted, that may be on terms. That is to say that dispensation is granted but only if the landlord accepts- and fulfils appropriate conditions. Specific reference was made to costs incurred by the lessees, including legal advice about the application made.

17. There have been subsequent decisions of the higher courts and Tribunals of assistance in the application of the decision in Daejan but none are relied upon or therefore require specific mention in this Decision.

18. More generally, the Tribunal considers that the case authorities demonstrate that the Tribunal has a very wide discretion to, if it considers it appropriate, impose whatever terms and conditions are required to meet the justice of the particular case- in Daejan it was said “on such terms as it thinks fit- provided, of course, that any such terms are appropriate in their nature and their effect”.

Determination on Papers

Consideration

19. The property is said to comprise a brick building arranged over 4 floors dating from the 1900s and converted into 5 flats in 1980s, there is one flat per floor, and one in the basement that has its own entrance.

20. The Applicant explained that they had applied by an application received 11 November 2025 for dispensation under Section 20ZA of the Landlord and Tenant Act 1985 (“the Act”) from the consultation requirements imposed by Section 20 of the Act in respect of major works of installation of a fire alarm and emergency lighting system , which is said to be required under the Regulatory Reform (Fire Safety) Order 2005 as 9 Grosvenor Gardens is a converted property. Further it is stated that three quotes have been obtained in October 2025, and that it is hoped dispensation can be granted to enable the works to be completed quickly to ensure the building is compliant with Fire Safety Regulations. Copies of the quotes have been supplied to the Tribunal.

21. Copies of the Leases were provided, there are various obligations under the Lease, to pay service charge to the landlord including; 5(6) (j) to “without prejudice to the foregoing to do or cause to be done all such works installations acts matters and things as in the absolute discretion of the Landlord may be considered necessary or advisable for the proper maintenance safety amenity and administration of the Building.”

22. The works appear, on the facts provided and without detailed consideration, to fall within the responsibility of the Applicant and may be chargeable as service charges.

23. The Tribunal finds that the Respondents will not suffer any prejudice by the Applicant not following the full consultation process.

24. The Tribunal consequently finds that it is reasonable to dispense with all of the formal consultation requirements in respect of the major works to the building.

25. This decision is confined to determination of the issue of the installation of the fire alarm and emergency lighting system. The Tribunal has made no determination on whether the costs incurred are reasonable and whether service charges are payable in any given sum or at all, this was the subject of a separate application.

RIGHTS OF APPEAL

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application to the First-tier Tribunal at the Regional office which has been dealing with the case by email at rpsouthern@justice.gov.uk

2. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.
3. If the person wishing to appeal does not comply with the 28- day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28- day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.
4. The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking.