FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case reference	**:**	**HAV/29UP/LDC/2025/0774**
Property	**:**	**18 Pembury Road, Tonbridge, Kent, TB9 2HX**
Applicant	**:**	**Janet Clifford**
Representative	**:**	**Mark Reed – Management Consultancy for Business Ltd**
Respondent	**:**	**Mira Craig – Flat A** **Janet Clifford- Ground Floor Flat** **Janet Clifford – Basement Flat**
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 PO9 2AL**
Date of decision	**:**	**19 March 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 1985 Act in respect of major works, being to repair the property because a wooden barge board and tiles have fallen off the front of the property. The works also include repair to further rotten wood and further damaged barge board. The works include the use of scaffolding and redecoration.

The application and the history of the case

2. The matter was determined on papers, no request for a hearing or inspection was received and the tribunal did not consider either to be proportionate.

3. Applicant, Janet Clifford, the freeholder was represented by Mark Reed of Management Consultancy for Business Ltd by letter of authority 19 November 2025.

4. The property is described as a large late Victorian four storey semi-detached house split into three self-contained flats.

5. The Respondents are the leaseholders.

6. The Applicant applied by an application dated 08 December 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 barge board and roof works.

7. The tribunal provided Directions dated 4 February 2026. The directions provided at paragraph 13 that the application should stand as the applicant's case.

8. The applicant notes that; "we have obtained several quotes and wish to proceed with the least expensive quote obtained from ELD Contractors Ltd for £ 4,600.00. This price also includes a scaffolding section to the front of the property. We need the FTT to authorise these urgent works."

"We have advised all lessees by Recorded Delivery Letters on 20/10/25, which included the 2 x quotes received for the remedial works and that there is no time to issue the normal S 20 Notices here due to the emergency nature of these works. Full details of this emergency were written to all lessees on 20/10/25 and they were all notified that if funds were not received by the managing agents by 04/11/25, that the Landlords would apply to the FTT Courts for dispensation to do the urgent works immediately , due to potential dangerous levels of water ingress to the property if nothing is done."

"None of the lessees have responded to previous requests for major works and we do not believe that some/ any of the lessees will respond positively regarding this request for emergency funding for these works here."

The Law

9. 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.

10. 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".

11. 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.

12. 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".

13. 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).

14. 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."

15. 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.

16. 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.

17. 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.

18. 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.

19. 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".

Submissions and Consideration

20. The Application contain copies of sample leases, a high-level review of these indicates the landlord is responsible for undertaking these works and collecting the cost of such from the leaseholders.

21. There is no evidence of a response from the leaseholders objecting to the application for dispensation or evidence that the leaseholders would experience prejudice for the dispensation of the consultation.

Determination

22.The Tribunal finds that the Respondents will not suffer any prejudice by granting dispensation to the Applicant to follow the full consultation process.

23.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.

24. This decision is confined to determination of the issue of dispensation from the consultation requirements in respect of the major works outlined above. 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. If a Lessee wishes to challenge the reasonableness of those costs and/ or the payable service charges, then a separate application under section 27A of the Landlord and Tenant Act 1985 would have to be made.

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).