



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

Case reference : **LON/00AY/LDC/2020/0216**

Property : **34-44, Bonneville Gardens,
London, SW4 9LF**

Applicant : **The Mayor and Burgesses of the
London Borough of Lambeth**

Representative : **NA**

Respondents : **Various leaseholders**

Representative : **NA**

Type of application : **Application for dispensation pursuant
to s.20ZA Landlord and Tenant Act
1985**

Tribunal member(s) : **Judge Shepherd
Steve Wheeler MCIEH**

Venue : **Paper decision**

Date of decision : **1st June 2021**

DETERMINATION

The Applicant is given dispensation from the consultation requirements contained in s.20 Landlord and Tenant Act 1985. They carried out essential works on 2nd September 2020 to deal with a leak from the mains supply.

The application

1. The applicant seeks an order pursuant to s.20ZA of the Landlord and Tenant Act 1985 (as amended) (“the 1985 Act”) for dispensation from all or part of the consultation requirements imposed on them by section 20 of the 1985 Act¹.
2. The applicant is the freeholder of premises at 34-44 Bonneville Gardens London SW4 9LF (“The Building”). The building consists of six residential flats including three leasehold flats. The Respondents are the leasehold residents of the premises.
3. The applicant seeks dispensation for essential works to deal with a leaking mains water supply. These works were carried out on an emergency basis in September 2020.
4. The leaseholders were notified of this application but no objections have been raised.
5. The landlord seeks dispensation from the statutory consultation requirements on the basis of urgency.
6. The tribunal did not consider that an inspection of the Building was necessary, nor would it have been proportionate to the issues in dispute.
7. The only issue for the tribunal is whether or not it is reasonable to dispense with the statutory consultation requirements of section 20 of the 1985 Act. **This application does not concern the issue of whether any service charge costs will be reasonable or payable.**

The Tribunal’s decision

8. The Tribunal determines that an order from dispensation under section 20ZA of the 1985 Act shall be made dispensing with all of the consultation requirements in relation to the works outlined in the application.

Reasons for the Tribunal’s decision

9. The tribunal has the jurisdiction to grant dispensation under section 20ZA of the 1985 Act “*if satisfied that it is reasonable to dispense with the requirements*”.
10. It is not considered that the lessees have suffered any particular prejudice as a result of the failure to follow the correct consultation procedure (see *Daejan Investments Ltd v Benson* [2013] UKSC 14.) The Tribunal accepts that the

¹ See **Service Charges (Consultation Requirements) (England) Regulations 2003 (SI2003/1987) Schedule 4, Part 2.**

landlord's intentions to carry out the works as soon as possible were genuine and indeed prudent.

11. Again the parties should note that this decision does not concern the issue of whether any service charge costs will be reasonable or payable. The tenants have the right to challenge such costs by way of a separate application if they so wish.

Name: Jim Shepherd

Date: 1st June 2021

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).

