



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

**Case reference** : **LON/00AW/LDC/2022/0119P**

**Property** : **Flats A-G, 22 Hans Crescent,  
London SW1X 0LL**

**Applicant** : **Ground Rent Residential Ltd**

**Representative** : **Charlene Brown of Warwick  
Estates**

**Respondents** : **The leaseholders of the Property**

**Type of application** : **Dispensation from compliance with  
statutory consultation  
requirements**

**Tribunal member** : **Judge P Korn**

**Date of decision** : **12 September 2022**

---

**DECISION**

---

**Description of hearing**

This has been a remote hearing on the papers. The form of remote hearing was **P**. An oral hearing was not held because the Applicant confirmed that it would be content with a paper determination, the Respondents did not object and the tribunal agrees that it is appropriate to determine the issues on the papers alone. The documents to which I have been referred are in an electronic bundle, the contents of which I have noted. The decision made is described immediately below under the heading “Decision of the tribunal”.

## **Decision of the tribunal**

The tribunal dispenses unconditionally with the consultation requirements in respect of the qualifying works which are the subject of this application insofar as they have not already been complied with.

## **The application**

1. The Applicant seeks dispensation under section 20ZA of the Landlord and Tenant Act 1985 (“**the 1985 Act**”) from the consultation requirements imposed on the landlord by section 20 of the 1985 Act in relation to certain qualifying works, insofar as they have not already been complied with.
2. The qualifying works which are the subject of this application consist of repairs to a waste pipe.
3. The Property comprises a converted building containing 7 residential flats across 6 floors.

## **Applicant’s case**

4. The Applicant’s managing agents state that a waste pipe serving all of the flats has cracked and is leaking sewage and waste. This has resulted in water ingress and damage to the basement, as well as problems of hygiene.
5. A Notice of Intention has been served on all leaseholders, and one tender has been received from Allen and Brown Ltd. The Applicant intends to instruct Allen and Brown to carry out the work.
6. The Applicant seeks dispensation from further compliance with the statutory consultation requirements on the grounds that the works are urgently required to prevent further damage and further water ingress and that the sewage and waste are very unhygienic for leaseholders.
7. The hearing bundle includes a copy of the Notice of Intention and a copy of Allen and Brown’s estimate.

## **Responses from the Respondents**

8. The hearing bundle contains no submissions from the Respondents objecting to the application, and I take this as confirmation from the Applicant and its managing agents that there have been no objections to the dispensation application.

### **The relevant legal provisions**

9. Under Section 20(1) of the 1985 Act, in relation to any qualifying works *“the relevant contributions of tenants are limited ... unless the consultation requirements have been either (a) complied with ... or (b) dispensed with ... by ... the appropriate tribunal”*.
10. Under Section 20ZA(1) of the 1985 Act *“where an application is made to the appropriate tribunal for a determination to dispense with all or any of the consultation requirements in relation to any qualifying works..., the tribunal may make the determination if satisfied that it is reasonable to dispense with the requirements”*.

### **Tribunal’s analysis**

11. I note that the Applicant has partially complied with the consultation requirements and that the failure to comply fully is due to the Applicant having taken the view, with the help of advice from its managing agents, that the required works of repair are too urgent to justify waiting for completion of the statutory consultation process.
12. As is clear from the decision of the Supreme Court in *Daejan Investments Limited v Benson and others (2013) UKSC 14*, the key issue when considering an application for dispensation is whether the leaseholders have suffered any prejudice as a result of the failure to comply with the consultation requirements.
13. In this case, none of the Respondents has expressed any objections in relation to the failure to go through the full statutory consultation process, and there is no evidence before me that the leaseholders were in practice prejudiced by the failure to consult fully. Furthermore, I accept on the basis of the uncontested evidence before me that the works are of an urgent nature and that it is in the leaseholders’ interests for the works to be completed with the minimum of delay.
14. The tribunal has a wide discretion as to whether it is reasonable to dispense with the consultation requirements, and on the facts of this case in the light of the points noted above I consider that it is reasonable to dispense with the consultation requirements insofar as they have not already been complied with.
15. As is clear from the decision of the Supreme Court in *Daejan v Benson*, even when minded to grant dispensation it is open to a tribunal to do so subject to conditions, for example where it would be appropriate to impose a condition in order to compensate for any specific prejudice suffered by leaseholders. However, as noted above, there is no evidence nor any suggestion that the leaseholders have suffered prejudice in this case.

16. Accordingly, I grant unconditional dispensation from compliance with the consultation requirements.
17. **It should be noted that this determination is confined to the issue of consultation and does not constitute a decision on the reasonableness of the cost of the works.**

### **Costs**

18. There have been no cost applications.

**Name:** Judge P Korn

**Date:** 12 September 2022

### **RIGHTS OF APPEAL**

- A. If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber) a written application for permission must be made to the First-tier Tribunal at the regional office dealing with the case.
- B. 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.
- C. If the application is not made within the 28 day time limit, such application must include a request for extension of time and the reason for not complying with the 28 day time limit; the Tribunal will then look at such reason and decide whether to allow the application for permission to appeal to proceed despite not being within the time limit.
- D. 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.