



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

**Case Reference** : **LON/00AW/LDC/2021/0037**

**Property** : **291-293 King's Road, London SW3 5EP**

**Applicants** : **Trustees of Sloane Stanley Estate No 8**

**Respondents** : **(1) Philippa Jane Gordon Copleston-Warren (Flat 1a)  
(2) Stephen T Low (Flat 2)  
(3) Mrs CL and Mrs MCA Kimmins (Flat 1B)  
(4) Mrs Charlotte Kimmins (Flat 4)  
(5) Mrs Amanda Jane Dickson (Flat 5)  
(6) Mr Leon Leong (Flat 6)  
(7) Kambas Inc (Flats 7 and 8)**

**Type of Application** : **Application under section 20ZA to dispense with consultation requirements**

**Tribunal Members** : **Judge T Cowen  
Mr S Mason MSc FRICS**

**Date of Decision** : **21 April 2021**

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**DECISION**

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**Decision of the tribunal**

The Tribunal grants unconditional dispensation in respect of the Applicants' proposed works.

## **The application**

1. The Applicants seek dispensation under section 20ZA of the Landlord and Tenant Act 1985 (the “1985 Act”).
2. Section 20 Part 1 notices were served on 12 February 2021. The Applicants now seek dispensation from all of the remaining consultation requirements imposed on a landlord by section 20 of the 1985 Act.
3. The application is in respect of qualifying works which have now been completed. The Applicant’s case is that emergency works were required to replace a leaking cold water storage tank in the roof, which has been leaking into Flat 7.
4. The only issue for the Tribunal is whether it is reasonable to dispense with statutory consultation requirements. This application does not concern the issue of whether any service charge costs are recoverable or payable.
5. The application to the Tribunal is dated 12 February 2021.
6. By a directions order dated 11 March 2021, the Tribunal directed that the application would be decided on paper without a hearing, unless any party requested an oral hearing by 2 April 2021. No such request has been made. This matter was therefore decided by us on the papers without a hearing.

## **The Facts**

7. The Property is a converted end-of-terrace Victorian building containing 8 flats.
8. We have seen a sample lease for flat 1 dated 10 September 1991. It contains provision for payment of service charges by the leaseholder in respect of costs incurred by the landlord while complying with their repairing obligations to keep in repair, amongst other things, the Common Parts. The Common Parts are defined in the lease to include the roof.
9. According to the Applicants, a cold water storage tank in/on the roof has been leaking into Flat 7. The tank cannot be repaired and requires replacement (“the Emergency Work”). The cost of the Emergency Work exceeds the section 20 limit. The work will require the erection of scaffolding. The Applicants also seek dispensation in respect of works to replace a loft hatch and roof steps with handle and to install a loft hatch access ladder (“the Additional Work”). The cost of the Additional Work also exceeds the section 20 limit. The Applicants say that it is convenient

and cost-effective to carry out the Additional Work while the scaffolding is in place.

10. We have seen reports from Hydrotec dated 1 June 2020 and C&K Services Limited dated 6 January 2021 in support of the application.
11. The Applicants have obtained a tender from Heightsafe dated 28 January 2021 in the sum of 23,742.40 + VAT in respect of the Additional Works.
12. The Applicants served section 20 notices on 12 February 2021. However, the Applicants say that if they are required to carry out the remainder of the consultation requirements in full before commencing work, then the leak will continue and significant damage will be done. At the time of the application, they were managing the leak by catching the water in a bucket in Flat 7. Part of the ceiling of Flat 7 had been removed to mitigate the damage. The leak was coming through roof supports which posed a danger of widespread damage to the whole building.
13. The directions order of 11 March 2021 provided for the application to be sent by the Applicant to all the leaseholders and for any leaseholders who wish to oppose the application to complete and return the reply slip with reasons by 26 March 2021.
14. The Tribunal has received an email dated 22 March 2021 from the Applicants' representative, in compliance with the directions order, confirming that they sent the application form and the directions order to each of the leaseholders by 19 March 2021. We are informed by the Applicants that there has been no response or any other communication from any of the leaseholders.
15. We accept all the evidence of the Applicants as there is no evidence to the contrary and there is no reason not to believe it.

### **The Tribunal's Decision**

16. The Tribunal has decided to dispense with the remaining statutory consultation requirements of section 20 of the 1985 Act in relation to the proposed works. We have considered the possibility of imposing conditions on the dispensation, and we have decided against doing so.

### **Reasons for the decision**

17. We have considered whether it would be reasonable to grant dispensation. The relevant statutory provisions are found in subsection 20ZA (1) of the 1985 Act under heading "Consultation Requirements: Supplementary". That subsection reads as follows: "*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 it is reasonable to dispense with the requirements”.*

18. In the light of the decision of the Supreme Court in *Daejan Investments v Benson* [2013] UKSC 14, we must consider whether dispensation would cause prejudice to the leaseholders. The burden of identifying relevant prejudice falls on the leaseholders who are seeking to resist the application. In this case, the leaseholders are not seeking to resist the application. *Daejan* also made it clear that the purpose of the statutory consultation requirements was to ensure that the leaseholders were protected from paying for inappropriate works or paying more than was appropriate.
19. There is no evidence of any such risk in this case. Nor is there any evidence of prejudice. We have no reason to doubt that the works are appropriate and necessary, from the material in front of us, and there is no-one who challenges the Applicant’s application. It is also clear that the works needed to be carried out as soon as possible in the circumstances.
20. The leaseholders of course continue to have the benefit of section 27A of the 1985 Act so that if they consider the costs of the works to be unreasonable they may make an application to the tribunal for a determination of their liability to pay the resultant service charge.
21. For all of the above reasons we conclude that it is appropriate to exercise the discretion conferred by section 20ZA of the 1985 Act by dispensing with the consultation requirements in relation to the proposed works.
22. There were no applications for costs before the tribunal.

**Chair**      Judge T Cowen      **Date**      21 April 2021

## **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.