



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

Case reference : **LON/00AY/LDC/2021/0294**

**Landlord
/Applicant** : **The Mayor & Burgesses London
Borough of Lambeth**

Representative : **Aleksandr Stepanyan**

**Tenants/
Respondents** : **Leaseholders at 1 -104 Wimborne House
Dorset Road, London, SW8 1AJ shown
on the attached Schedule**

Representatives : **None**

Property : **1-104 Wimborne House, Dorset Road,
London, SW8 1AJ**

Tribunal : **Mr Charles Norman FRICS
Mrs Louise Crane MCIEH**

Date of Decision : **17 June 2022**

DECISION

Covid-19 pandemic: description of determination

This has been a remote determination. The form of remote determination was P: PAPERREMOTE. A face-to-face hearing was not held because it was not practicable, no-one requested the same, and all matters could be determined on the papers. The documents that the Tribunal were referred to are in several bundles, the contents of which the Tribunal has noted.

Decision

1. Dispensation in respect of the following items is granted unconditionally:
 - a. Investigations in relation to a severe leak and burst water pipe on the mains supply to the property £6,647;
 - b. Cost for the temporary repair/replacement works £31,418;
 - c. Costs for the permanent mains re-run renewal £26,513.33;VAT is to be added in respect of the above items a, b and c where applicable.

Reasons

The Applicants' Case

2. The landlord/applicant has applied for dispensation from the statutory consultation requirements in respect of repairs to a water main serving the building, leading to the riser at the property. A temporary repair was initially carried out to stop the high loss of water volume. A permanent repair was completed on 17 May 2021.
3. On 9 December 2020 the Applicant was notified of a leak and an investigation was carried out. This revealed a severe leak and burst on a mains water supply pipe leading to a riser. Work orders were raised as follows:
 - a. Investigations in relation to a severe leak and burst water pipe on the mains supply to the property £6,647
 - b. Cost for the temporary repair/replacement works £31,418
 - c. Costs for the permanent mains re-run renewal £26,513.33
 - d. VAT in respect of the above items a, b and c where applicable.
4. On 13 January 2021 a justification report was produced. The justification was that the defect was severe and required a temporary repair to prevent a high loss of water volume. A permanent solution was also required as the pipework was old and very brittle. The works were completed 17 May 2021.
5. The Council took reasonable steps to inform the Respondents, providing informal notice, albeit the response period was briefer than as provided under the consultation regulations. No observations have been received either before or after completion of these works.

6. Following *Daejan Investments Limited v Benson* [2013] UKSC 14 as the Respondents have suffered no prejudice and unconditional dispensation should be granted.

The Tenants/Respondents' case

7. None of the tenants/respondents responded to the application.

The Law

8. Section 20ZA is set out in the appendix to this decision. The Tribunal has discretion to grant dispensation when it considers it reasonable to do so. In addition, the Supreme Court Judgment in *Daejan Investments Limited v Benson and Others* [2013] UKSC 14 empowers the Tribunal to grant dispensation on terms or subject to conditions.

Findings

9. The Tribunal finds that the applicant has acted reasonably in dealing with this urgent disrepair and it notes that that none of the tenants have objected to the application. Therefore dispensation under section 20ZA is granted unconditionally in respect of the consultation requirements for these works.

- 10. However, this decision has no bearing on the question of the reasonableness of costs to be incurred or their payability. The Tribunal makes no findings in relation to those matters.**

C Norman FRICS
Valuer Chairman

17 June 2022

Schedule of Respondents

[...]

ANNEX - RIGHTS OF APPEAL

- The Tribunal is required to set out rights of appeal against its decisions by virtue of the rule 36 (2)(c) of the Tribunal Procedure (First-tier Tribunal)(Property Chamber) Rules 2013 and these are set out below.
- If a party wishes to appeal against 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.

Appendix

Section 20ZA Landlord and Tenant Act 1985

(1) 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 or qualifying long term agreement, the Tribunal may make the determination if satisfied that it is reasonable to dispense with the requirements.

(2) In section 20 and this section—

“qualifying works” means works on a building or any other premises, and

“qualifying long term agreement” means (subject to subsection (3)) an agreement entered into, by or on behalf of the landlord or a superior landlord, for a term of more than twelve months.

(3) The Secretary of State may by regulations provide that an agreement is not a qualifying long term agreement—

(a) if it is an agreement of a description prescribed by the regulations, or

(b) in any circumstances so prescribed.

(4) In section 20 and this section “the consultation requirements” means requirements prescribed by regulations made by the Secretary of State.

(5) Regulations under subsection (4) may in particular include provision requiring the landlord—

(a) to provide details of proposed works or agreements to tenants or the recognised tenants' association representing them,

(b) to obtain estimates for proposed works or agreements,

(c) to invite tenants or the recognised tenants' association to propose the names of persons from whom the landlord should try to obtain other estimates,

(d) to have regard to observations made by tenants or the recognised tenants' association in relation to proposed works or agreements and estimates, and

(e) to give reasons in prescribed circumstances for carrying out works or entering into agreements.

(6) Regulations under section 20 or this section—

(a) may make provision generally or only in relation to specific cases, and

(b) may make different provision for different purposes.

(7) Regulations under section 20 or this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

LEASEHOLDERS OF 1- 104 WIMBORNE HOUSE, DORSET ROAD, SW8 1AJ
LIST OF RESPONDENTS

MISS ZOE BRYANSTON -CROSS
MR ABESELOM TSEGAYE
MS JULIET MBULIRO
MRS ELISABETH LANIYAN
MS CYNTHIA OGOAZI
MR DEREK LARTEY
MR PAULO DE TARSO CARVALHO DE SOUSA
MRS LOUISE P. BENN
MRS CATHERINE R NKOGLIOM
MR IAN DAVID HABENS
MR AGOSTINHO MIGUEL FREITAS BASILIO
MS LILJA KATANKA
MRS ERINE ANTROBUS
MISS DORALICE CASTELLANOS
KOREX LTD
THOMAS OWEN-SMITH
REV. ALISA B. NEWBY
MR NATHAN JAMES WARD
MR ANTONIO ARAUJO
MISS KAREN C BARCLAY
SSJ PROPERTIES LTD
MISS SAEDI ABDORAHMAN
MR AHMEDDIN OSMAN
MR ARNOLD MATTHEWS
MS RUMANA MOHAMED
MISS DREENAGH LYLE