



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

Case reference : **LON/00AY/LDC/2022/0021**

Property : **1-53 Secker House Minet Road London
SW9 7TP**

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

Representative : **Mr Rasel Ahmed**

**Tenants/
Respondents** : **Various Leaseholders as set out on the
attached Schedule**

Representatives : **None**

Type of Application : **Dispensation from consultation
requirements under section 20ZA,
Landlord and Tenant Act 1985 (“the
Act”)**

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

Date of Decision : **9 May 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 a bundle of approximately several bundles, the contents of which the Tribunal has noted.

Decision

1. Dispensation in respect of the following costs incurred in relation to a failure of water supply to the building is **GRANTED UNCONDITIONALLY**:
 - a. Temporary works including investigations and excavations £6,838.50.
 - b. Permanent works including tracing the mains supply further excavations, installing a new water main, backfilling and reinstating the area £18,835.25.
 - c. VAT in respect of the above items a and b where applicable.

Reasons

Background

2. The landlord made application on 2 February 2022 under 20ZA of the Act. On 17 March 2022 the Tribunal issued Directions in this matter, setting the case down for determination on the papers without a hearing unless any party requested one, but no such request was received. The Landlord was directed to send the application to the respondents and display the application in a predominate part in the communal area of the property. The Directions included a reply form for use by the Respondents.

The Applicants' Case

3. On 26 January 2022 the Council was notified that there was a complete failure of water supply to the building. Thames Water denied responsibility as the issue related to the Landlord's pipework. OCO Limited, the Landlord's contractor, was instructed to implement a temporary repair. The contractor excavated and created a temporary override supply. This was surface mounted and therefore not a permanent solution owing to the risks of frost damage and potential tampering.
4. A permanent solution below ground level is therefore also required urgently. The Landlord's contractor has been instructed to install this.
5. Following *Daejan Investments Limited v Benson* [2013] UKSC 14 the Respondents have suffered no prejudice and unconditional dispensation should therefore be granted.

The Tenants/Respondents' case

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

The Law

7. 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

8. 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.
9. **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

9 May 2022

Schedule of Leaseholders

Mrs Yun and Mr He
Mr K O Folami
Mr Ottaviano
Mr L Obi
Mr D P Pun and Ms N K Pun
Bluegate Housing Ltd
Mr O Williams and Mrs A Williams
Mr R Hayes and Ms D Hayes
Mr G Berhe
Mr J T O Bertod and Mr D J Harris

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.