



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

<b>Case Reference</b>	<b>:</b>	<b>LON/00AY/LDC/2024/0222</b>
<b>Property</b>	<b>:</b>	<b>1-6 Zaire Court, Voltaire Road, London, SW4 6DE</b>
<b>Applicant</b>	<b>:</b>	<b>The Mayor and Burgesses of the London Borough of Lambeth</b>
<b>Respondents</b>	<b>:</b>	<b>Leaseholders listed in the application of flats 1, 4, 5 and 6</b>
<b>Type of application</b>	<b>:</b>	<b>Dispensation from statutory consultant requirements</b>
<b>Tribunal Member</b>	<b>:</b>	<b>Mrs S Phillips MRICS Valuer Chair</b>
<b>Date of Decision</b>	<b>:</b>	<b>26 March 2025</b>

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**DECISION**

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**The Tribunal grants the application for retrospective dispensation from statutory consultation in respect of the subject works, namely the fixing of a water leak at the Property.**

**The applicant should place a copy of this decision together with an explanation of the leaseholders' appeal rights on its website (if any) within seven days of receipt and maintain it there for at least three months, with a sufficiently prominent link to both on its home**

**page. It should also display copies in a prominent position in the common parts of the Property.**

**This decision does not affect the Tribunal's jurisdiction upon any future application to make a determination under section 27A of the Act in respect of the reasonableness and/or the cost of the work.**

### **The Application**

- 1) The Applicant seeks a determination pursuant to section 20ZA of the Landlord and Tenant Act 1985 ("the **Act**") for retrospective dispensation from consultation in respect of the repairing of a water leak at the Property. This included:
  - a) Trace all services and chalk mark, trace all mains and supply runs.
  - b) Set up site safety barrier system.
  - c) Expose pipe to work on and arrange for shut down.
  - d) Cut out and install large diameter valve.
  - e) Construct valve chamber.
  - f) Backfill and permanently reinstate all areas disturbed, clear site and leave clean and tidy.
  - g) Install valve plate and post.
  - h) Excavate trench to point of entry.
  - i) Break through into block and install duct.
  - j) Run new MDPE pipe from new valve through into property, insulating through duct.
  - k) Install new valve double check valve and drain valve.
  - l) Make all necessary connections.
  - m) All locally chlorinated and visually tested.
  - n) Remove all surplus materials and leave clean and tidy.
- 2) The Service Charges (Consultation Requirements) Regulations 2003 provide that consultation requirements are triggered if the landlord plans to carry out qualifying works which would result in the contribution of any

tenant being more than £250. The cost of the works the subject of the application exceed this threshold.

- 3) By directions dated 29 January 2025 (the “**directions**”) issued by the tribunal directed the applicant to prepare a statement of case, provide reasoning for the application and provide any documentation the Applicant wished to rely upon for the application. The tribunal also directed that the applicant send each of the leaseholders the application, the tribunal’s directions, the applicant’s statement of case and display the same in the common parts of the Property, confirming to the tribunal that it had done so. The applicant confirmed to the tribunal on 25 February 2025 that it had complied with this direction.
- 4) The directions required any leaseholder who opposed, or positively supported, the application should tell the tribunal. If they opposed the application, they should send the tribunal and the applicant’s representative a statement responding to the application together with any documents they wished to rely on. The tribunal received a response from the leaseholder of Flat 6, Mr Paul Elster on behalf of Giltquest Ltd.
- 5) Mr Elster’s objection stated that the cost of these works should not form part of the overall service charge for the property as the works related to Flat 2 only.
- 6) The directions provided that the tribunal would decide the matter on the basis of written submissions unless any party requested a hearing. No such request has been made.

### **The applicant’s case**

- 7) The applicant is the freeholder of the Property. In its application the applicant explained that in July 2024, following an investigation by the Applicant’s Qualifying Long-Term contractor, T Brown Group (“the Contractor”), the Applicant was notified of a pinhole leak in the pipework located before the stopcock underneath the kitchen sink in Flat 2. Due to the pipe’s location and condition, the Contractor advised that the pipework needed to be replaced as it was not feasible to install a lead lock or perform a patch repair. To stop the leak, it was necessary for the Contractor to isolate the cold-water supply to the Property and deliver bottled water to the resident in the meantime.
- 8) On 19 July 2024 the Contractor quoted £11,270.84 exclusive of VAT for the works set out in paragraph 1. Consequently, on 25 July 2024, the Applicant raised a work order for the Contractor to attend the Property and carry out the works.

- 9) Letters were issued to the leaseholders on 1 August 2024 setting out the cost of the total works, explaining why they were needed and that an application would be made to the tribunal for dispensation from the section 20 consultation requirements.
- 10) The situation was particularly urgent due to the presence of a young child in the household raising health, safety, and comfort issues. A temporary fix to allow for full consultation was not practicable because of the pipework's location and condition. Complete replacement of the pipework was required to restore a safe and reliable water supply. Leaving the pipework in its current state would have risked further leaks, which could cause significant disruption and potential water damage to the Property.

### **The Respondents' case**

- 11) One leaseholder responded to application. Mr Paul Elster on behalf of Giltquest Ltd for Flat 2 signed the Reply Form dated 18 February 2025 and included written submissions in a letter of the same date. It was stated that the expenditure in question should not form part of the service charge for the block as it was in respect of the water supply to Flat 2 only and not a supply common to the rest of the block.

### **Determination and Reasons**

- 12) Section 20ZA(1) of the Act provides:

*“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 that it is reasonable to dispense with the requirements.”*

- 13) The whole purpose of section 20ZA is to permit a landlord to dispense with the consultation requirements of section 20 of the Act if the tribunal is satisfied that it is reasonable for them to be dispensed with.
- 14) The Tribunal has taken account the decision in *Daejan Investments Ltd v Benson and others* [2013] UKSC 14 in reaching its decision.
- 15) There is no evidence before the tribunal that the respondents were prejudiced by the failure of the applicant to comply with the consultation requirements. The comment submitted by one of the leaseholders is not a point that this Tribunal can consider under this application. The tribunal

is therefore satisfied that it is reasonable to dispense with all or any of the consultation requirements in relation to the repairs to a water leak.

- 16) Whether the works are payable under the terms of the lease, or if the works have been carried out to a reasonable standard or at a reasonable cost are not matters which fall within the jurisdiction of the tribunal in relation to this present application. This decision does not affect the tribunal's jurisdiction upon any future application to make a determination under section 27A of the Act in respect of the reasonableness, payability and /or cost of the works.

**Chairman: Mrs S Phillips MRICS**

**Date: 26 March 2025**

### **APPEAL PROVISIONS**

These summary reasons are provided to give the parties an indication as to how the Tribunal made its decision. If either party wishes to appeal this decision, they should first make a request for full reasons and the details of how to appeal will be set out in the full reasons. Any request for full reasons should be made within a month. Any subsequent application for permission to appeal should be made on Form RP PTA.