



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

**Case reference** : LON/00AY/LDC/2017/0143

**Property** : 1-2 Embankment Gardens, Chelsea,  
London SW3 4LH

**Applicant** : 1-2 Embankment Gardens Ltd

**Representative** : Rodgers & Burton solicitors

**Respondents** : The leaseholders at the property (see the  
list of lessees and sub-lessees attached to  
the application)

**Type of application** : To dispense with the requirement to  
consult lessees about major works

**Tribunal** : Judge Nicol  
Mr SF Mason BSc FRICS FCI Arb

**Date of decision** : 5<sup>th</sup> February 2018

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**DECISION**

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The Tribunal has determined that the Applicant shall be granted dispensation from the statutory consultation requirements in relation to works to address ongoing water penetration and consequent timber decay and dry rot at the subject property.

**Reasons**

1. The Applicant, with the assistance of Mr Stephen Reynolds BSc (Hons) MRICS of William Martin Property & Construction Consultants Ltd, has identified severe decay to joists and roof decking and dry rot due to ongoing water ingress. They now wish to address it urgently.
2. The Applicant has obtained two quotes, the lowest of which was for £18,418.50 from AR Lawrence building contractors. When apportioned among the 22 flats at the subject property, this expenditure would trigger

the consultation requirements under section 20 of the Landlord and Tenant Act 1985 and the Service Charges (Consultation Requirements) (England) Regulations 2003. However, they believe the urgency of the works means that they do not have time for full compliance with the statutory consultation requirements and have applied under section 20ZA of the same Act for dispensation.

3. The Tribunal made directions on 20<sup>th</sup> December 2017 requiring the Applicant to display and send to each lessee both the application and the directions. Compliance was confirmed by letter dated 5<sup>th</sup> January 2018. In response, 7 lessees returned the standard form indicating their support for the application but there were no objections.
4. The Tribunal was provided with the lease for one of the flats which, it is assumed, is standard. Under that lease, the Applicant is obliged to maintain the property and keep it insured and the lessees are obliged to pay a proportionate share of the costs incurred.
5. In accordance with the Supreme Court's decision in *Daejan Investments Ltd v Benson* [2013] 1 WLR 854, the primary issue when considering dispensation is whether any lessee would suffer any financial prejudice as a result of the lack of compliance with the full consultation process.
6. The Tribunal is satisfied that the problem has been properly identified and that the need for remedial works is sufficiently urgent to justify not going through the full consultation process. It is unfortunate that the Tribunal has not been provided with a schedule of the proposed works. However, given the lack of objections or any proven prejudice to any lessee, the Tribunal is satisfied that it is reasonable to dispense with the statutory consultation requirements.

**Name:** NK Nicol

**Date:** 5<sup>th</sup> February 2018