



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

Case Reference	:	LON/00BJ/LDC/2023/0328
Property	:	Flat 1-12, 25 Tooting Bec Rd, SW17 8BY
Applicant	:	Tooting Bec Management Company Limited
Representative	:	Warwick Estates
Respondent	:	Various leaseholders of the 12 flats that comprise the property, the details of which are on the application.
Representative	:	None
Type of Application	:	An application under section 20ZA of the Landlord and Tenant Act 1985 for dispensation from consultation prior to carrying out works.
Tribunal Members	:	Mr I B Holdsworth FRICS MCI Arb
Date and venue of Hearing	:	3rd April at remote venue
Date of Decision	:	3rd April 2024

DECISION

Decisions of the Tribunal

The Tribunal determines that dispensation should be given from all the consultation requirements in respect of the works to repair and renew the Lift, (defined as the “Lift Works”) at Flat 1-12, 25 Tooting Bec Rd, SW17 8BY required under s.20ZA of the Landlord and Tenant Act 1985 (the “Act”) for the reasons set out below. The agreed cost of the Lift Works is £4,560 inclusive of VAT.

The application

1. The Applicant seeks a determination pursuant to s.20ZA of the Landlord and Tenant Act 1985 (“the 1985 Act”) to dispense with the statutory consultation requirements associated with undertaking essential maintenance and/or renewal to the lift at Flat 1-12, 25 Tooting Bec Rd, SW17 8BY **“the property”**.
2. An application was received by the First-tier Tribunal dated 21 December 2023 seeking dispensation from the consultation requirements. Directions were issued on the 2 February 2024 to the Applicant. These Directions required the Applicant to advise all Respondents of the application and provide them with details of the proposed works.
3. The relevant legal provisions are set out in the Appendix to this decision.

The hearing

4. This matter was determined by written submissions as no request was made for either a video or face to face hearing. The Applicant submits a bundle of relevant materials to the Tribunal.
5. The Tribunal is advised by the Applicants that none of the leaseholders responded to advice that they intended to make an application seeking dispensation from the statutory consultation procedure in respect of the Lift Works.

The background

6. The property which is the subject of this application is a four-storey building with commercial premises at ground floor with 12 self-contained flats above.

7. The lift serves all floors. The operation of the lift failed in the fourth quarter of 2023. The residents of the flats subsequently relied upon the communal stairway to access their flats whilst the managing agent Warwick Estates liaised with the lift maintenance company, The Lift Company Limited, Kent over the repair and renewal of the apparatus.
8. An initial repair was undertaken by The Lift Company Ltd to the lift drive contactors in an attempt to remedy the lift fault. This repair failed and a further quotation was submitted by the lift contractors to repair or replace the drive unit at a cost of £4,560 inclusive of vat. The advice of the lift contractors was that these works were "*the next cheapest option*" to ensure efficient operation of the lift and improved longevity of the operating system.
9. A single quote was obtained for the Lift Works by the Applicants. The total cost of the works was £4,560 inclusive of vat. The Tribunal understand the Lift Works are now completed.
10. No Notice of Intention to carry out the proposed Lift Works was sent to leaseholders.
11. It is not the intention of the Applicants to carry out any further consultation about this matter.
12. The Applicant contends that the Lift Works were needed urgently to ensure the health and safety of residents, particularly of those less mobile and vulnerable residents who occupy flats on the upper floors of the building.
10. Prior to my determination the Tribunal had available a bundle of papers which included the application, the directions and a copy of written representations prepared by the Applicant that provided information on the background to the Lift works.
12. A copy of a specimen lease for each flat is supplied. This specimen lease did not include Schedule 8 which details the tenant's maintenance obligations. There was no copy of the Head Lease included in the Applicants bundle. It is suspected the Head Lease includes relevant information about leaseholder liability for Landlords Common Parts including any obligations to pay maintenance charges for the lift.
13. The only issue for me to consider is whether it is reasonable to dispense with the statutory consultation requirements in respect of the Works. This application does not concern the issue of whether any service charge costs are reasonable or payable.

The determination

14. The Tribunal has considered the papers lodged. There is no objection raised by the Respondents, either together or singularly. We are told the leaseholders urged the management company to remedy the lift operation urgently when the lift failure was initially reported.
15. There is a demonstrated need to carry out the Lift Works urgently to prevent harm and inconvenience to residents at the property. The Tribunal cannot identify any prejudice caused to the Respondents by the grant of dispensation from the statutory consultation procedure.
16. It is for these reasons the Tribunal is satisfied it is appropriate to dispense with the consultation requirements for the Lift Works. It is noted no competitive quotes were submitted with the Application.
17. **My decision does not affect the right of the Respondents to challenge the costs, payability or the standard of work should they so wish.**
18. **In accordance with paragraph 9 of the Directions, it is the Applicant's responsibility to serve a copy of the Tribunal's decision on all Respondent leaseholders listed on the Application.**

Tribunal Judge: Ian B Holdsworth

Date: 3 April 2024

Appendix of relevant legislation

Section 20 of the Act

- (1) Where this section applies to any qualifying works or qualifying long term agreement, the relevant contributions of tenants are limited in accordance with subsection (6) or (7) (or both) unless the consultation requirements have been either—
 - (a) complied with in relation to the works or agreement, or
 - (b) dispensed with in relation to the works or agreement by (or on appeal from) a leasehold valuation tribunal.
- (2) In this section “relevant contribution”, in relation to a tenant and any works or agreement, is the amount which he may be required under the terms of his lease to contribute (by the payment of service charges) to relevant costs incurred on carrying out the works or under the agreement.
- (3) This section applies to qualifying works if relevant costs incurred on carrying out the works exceed an appropriate amount.
- (4) The Secretary of State may by regulations provide that this section applies to a qualifying long-term agreement—
 - (a) if relevant costs incurred under the agreement exceed an appropriate amount, or
 - (b) if relevant costs incurred under the agreement during a period prescribed by the regulations exceed an appropriate amount.
- (5) An appropriate amount is an amount set by regulations made by the Secretary of State; and the regulations may make provision for either or both of the following to be an appropriate amount—
 - (a) an amount prescribed by, or determined in accordance with, the regulations, and
 - (b) an amount which results in the relevant contribution of any one or more tenants being an amount prescribed by, or determined in accordance with, the regulations.
- (6) Where an appropriate amount is set by virtue of paragraph (a) of subsection (5), the amount of the relevant costs incurred on carrying out the works or under the agreement which may be taken into account in determining the relevant contributions of tenants is limited to the appropriate amount.

- (7) Where an appropriate amount is set by virtue of paragraph (b) of that subsection, the amount of the relevant contribution of the tenant, or each of the tenants, whose relevant contribution would otherwise exceed the amount prescribed by, or determined in accordance with, the regulations is limited to the amount so prescribed or determined.

Rights of appeal

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the tribunal is required to notify the parties about any right of appeal they may have.

If a party wishes to appeal 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.

If the tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).