



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

**Case reference** : **LON/00BK/LDC/2023/0329**

**HMCTS code** : **P:PAPERREMOTE**

**Property** : **27-29 LONG ACRE, 32 FLORAL  
STREET, LONDON, WC2E 9LD**

**Applicants** : **1. RLUKREF NOMINEES (UK)  
ONE LTD  
2. RLUKREF NOMINEES (UK)  
TWO LTD**

**Representative** : **Rendall & Ritner Limited**

**Respondents** : **The Leaseholders of the various  
apartments at the Property as listed in  
the application**

**Representative** :

**Type of application** : **An Application for a Dispensation  
Order pursuant to section 20ZA of the  
Landlord and Tenant Act 1985**

**Tribunal members** : **JUDGE SHAW**

**Venue** : **PAPER DETERMINATION**

**Date of decision** : **9<sup>th</sup> April 2024**

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**DECISION**

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## **Description of hearing**

This has been a remote determination on the papers which has not been objected to by the parties. The form of remote hearing code and description was: P:PAPERREMOTE. A face-to-face hearing was not held because none of the parties requested such a hearing, and all the issues could be determined in a remote hearing, on paper. The documents submitted to the Tribunal will, as necessary, be referred to below, and all papers submitted have been perused and the contents considered. The order made is described at the end of these reasons.

## **Decision of the tribunal**

The tribunal determines that an order dispensing with the consultation provisions under section 20 of the Landlord and Tenant Act 1985, is appropriate in this case, and makes such order.

## **The application**

1. The application is dated 22<sup>nd</sup> November 2023 and the Applicants seek a determination pursuant to s.20ZA of the Landlord and Tenant Act 1985 (“the 1985 Act”)

## **The hearing**

2. The Applicants sought a Paper Hearing, which was, as stated above, not objected to by the Respondents.

## **The background**

3. The Property is a 6 storey building containing 6 residential apartments. There are 4 apartments on the 3<sup>rd</sup> floor and one flat on each of the 4<sup>th</sup> and 5<sup>th</sup> floors. The Applicant landlord has applied retrospectively for dispensation from the statutory consultation requirements in respect of upgrading works to the elevator at the property. The application does not state how or when it was discovered that the elevator began to malfunction. However the invoice from the relevant contractors to be referred to below, shows that the works were completed on 29<sup>th</sup> September 2023.
4. When the problem was investigated by Kone plc, who may have been the suppliers/manufacturers of the elevator ( although the application is also silent in this respect) it was discovered that the internal driver mechanism was now obsolete and a new driver had to be supplied and installed.

5. The Applicant contends that it was not practical to follow the full consultation process required under section 20 of the Act, given the urgency of the works. There was urgency because the apartments are situate on the upper floors and some of the leaseholders are elderly. The leaseholders appear to have been kept informed of the situation, and there is some documentary evidence to this effect in the bundle supplied.
  
6. The bundle of documents was made available to the Respondents in accordance with the Directions of the Tribunal issued on 2<sup>nd</sup> February 2024. The Respondents were given the opportunity to challenge the application by 5<sup>th</sup> March 2024. On 12<sup>th</sup> March 2024, the Applicants' representatives confirmed to the Tribunal that none of the leaseholders had raised any objections to this application for dispensation, nor in respect of the works generally.

### **The Issues**

7. The sole issue in this case is whether the tribunal is satisfied that it is reasonable for the tribunal to dispense with the consultation provisions (section 20 of the Act) which would otherwise have applied to the qualifying works at the property, as described below.

### **The tribunal's decision**

8. The tribunal determines that it is reasonable to dispense with the consultation provisions of section 20 of the Act, pursuant to section 20ZA thereof, and in relation to the roof works set out in the invoice of Kone plc, referred to above. A dispensation order to this effect is therefore made, as set out below.

### **Reasons for the tribunal's decision**

9. As mentioned, Directions in this case were given on 2<sup>nd</sup> February 2024. In those Directions, the Respondent leaseholders were given the opportunity both to request an oral hearing and to object to the

application for dispensation. No such request has been received by the Tribunal, nor has the Tribunal been notified of any objection from any of the leaseholder Respondents. Steps were taken promptly after the initial malfunction became apparent, although it would have been useful for the Tribunal to have had marginally more detail about when this was discovered, the timeline up until the time of repair, the communication with the Respondents in the meantime, and the nature of the indisposition and number of leaseholders affected by such indisposition. Nonetheless, the Tribunal is satisfied on the evidence before it that it was reasonable to act before formal statutory consultation, because the apartments are on the 3<sup>rd</sup> – 5<sup>th</sup> floors, and some of the leaseholders are elderly and would otherwise have had difficulty reaching and leaving their apartments. The Tribunal is also satisfied that no prejudice has been caused to the Respondents, as described in the Supreme Court decision of *Daejan Investments v Benson 2013*.

#### 10. **DECISION**

For the reasons set out above, the tribunal determines that it is reasonable to dispense with the consultation provisions of section 20 of the Act, pursuant to section 20ZA thereof, and in relation to the elevator works described above. A dispensation order to this effect is therefore made. It should be understood that nothing in this Decision precludes the entitlement of the Respondents to challenge the cost, quality, reasonableness or payability of service charges for these works, under the provisions of section 27A of the Act, should they have reason or the desire to do so.

**Name:** JUDGE SHAW

**Date:** 9<sup>th</sup> April 2024

#### **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.