



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

**Case reference** : **LON/00AC/LDC/2023/0211**

**Property** : **Wendover Court, Finchley Road,  
London NW2 2PG and NW2 2PH**

**Applicant** : **Wendover and Moreland Courts  
Limited**

**Representative** : **None**

**Respondent** : **The Leaseholders of the 55 flats at the  
Property**

**Representative** : **Mr Alberto Dal Ben for himself only**

**Type of application** : **Application for dispensation under  
s20ZA of the Landlord and Tenant Act  
1985**

**Tribunal member(s)** : **Judge Dutton  
Mr R Waterhouse BSc (Hons) LL.M  
Property Law MA**

**Date and venue of hearing** : **Paper determination**

**Date of decision** : **8 February 2024**

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**DECISION**

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## **Decisions of the tribunal**

**The tribunal determines that dispensation should be granted from the remaining consultation provisions under s20 of the Landlord and Tenant Act 1985 for the reasons set out below.**

### **Background**

1. This is an application under section 20ZA of the Landlord and Tenant Act 1985 (the Act) by the landlords, Wendover and Moreland Courts Limited in respect of the property at Wendover Court, Finchley Road, London NW2 2PG and NW2 2PH (the Property) for dispensation from the consultation requirements under s20 of the Act. The application is dated 31 July 2023.
2. We have been supplied with a bundle running to some 75 pages. As well as the application, the bundle included the directions issued by the tribunal on 13 October 2023, a statement on behalf of the Applicants by Mr Ivor John Goddard, a director dated 15 December 2023 and a statement of objection from Mr Alberto Dal Ben, dated 25 November 2023. In addition, a Notice of Intention dated 9 December 2022 was provided as well as circulars to the leaseholders and letters from Mr Dal Ben. We have taken them into account when reaching our decision.
3. Proposals to investigate and remove asbestos from the basement of the Property were considered in late 2020. Subsequently, it appears that the asbestos issue was further reaching, resulting in the basement access being limited until the asbestos had been removed. In December 2022 a Notice of Intention was sent to the leaseholders proposing works to render the area safely accessible. No responses were received from the leaseholders save for one, which did not affect the intentions. Tenders were received but were not acceptable to the Applicant. Fate intervened for on 5 May 2023 a fire occurred in the motor room for those lifts servicing flats 10 – 28 at the Property. As there was an intention to renovate the three lifts at the Property it was decided for convenience and cost savings to deal with all three lifts at the same time. A quote for this in the sum of £34,740 plus VAT was obtained from Omega Citylifts, for which 30% was payable on placing the order. It does not seem that such an order was placed.
4. To facilitate the lift works in May 2023 invitations for the removal of asbestos from the basement were sought but were unacceptable for the reasons set out in Mr Goddard's statement. In view of the necessity to repair the lifts to flat 10 – 28 it was decided to remove the asbestos from the basement and carry out the more limited lift repairs at, as we understand it, a cost of £12, 506.40 by a contract dated 7 July 2023. Matters did not run smoothly as Mr Goddard states in his statement, and hand over, which would, we understand mean the removal of all

asbestos in the basement and the repair of the lift to flat 10 – 28 should be completed by December 2023.

5. There is a detailed response to matters raised by Mr Dal Ben, which in truth do not go to the issues we are required to determine, namely was it reasonable to dispense with the consultation requirements.
6. Mr Dal Ben provided a statement objecting to the dispensation application. His first point was that as a leaseholder affected by the failing of the lifts to flat 10 – 28 he had not been consulted as to the need for urgency. He refers to earlier complaints which are within the bundle. One is headed formal complaint to Trust Property Management and second dated roughly a month later continues the formal complaint. Somewhat antagonistic comments are made.
7. He then moves on to the asbestos issue and questions whether the removal was necessary again using somewhat inflammatory language. We have carefully noted all he had to say.
8. The directions issued on 6 December 2023 provided that in the absence of any request for a hearing the application would proceed as a paper determination. Save for Mr Dal Ben, we are not aware that any other leaseholder has objected to the application to dispense.

## **Findings**

9. We have considered this matter solely on the papers before us. This application relates only to the dispensation from the consultation requirements set out at s20 of the Act and the Service Charges (Consultation Requirements (England) Regulations 2013 (the Regulations). **It does not relate to the reasonableness or payability of the costs associated with the works.**
10. Accordingly, Mr Dal Ben's concerns about the costs of the works are not affected by our decision. He can still challenge same. Indeed, there is something of a history of disputes between Mr Dal Ben and the landlord and we have borne that in mind, the more so as we cannot discern any evidence that the works are not required and required as soon as possible to get the lift back working. He does not, so far as we are aware speak for the other residents. We are not aware of any complaints from other leaseholders concerning this application, and we have noted the comments of Mr Goddard at paragraph 21 of his statement. It seems Mr Dal Ben did not raise any objection to the Initial Notice in December 2020 and there is no doubt that asbestos needs to be dealt with if works are to be undertaken in close proximity, indeed it

would seem that the lift company would not deal with the works until the asbestos issue was resolved.

11. It is fair to say that matters have not progressed as had been hoped by the Applicant. However, the evidence of Mr Goddard is that the works have by now been concluded and if the full s20 procedure had been followed, with the difficulties in tying down costs and contractors we suspect that the residents of flat 10 -28 would still be without a lift.
12. In the circumstances we are satisfied that it is reasonable to grant dispensation from the consultation requirements. We have borne in mind the Supreme Court decision in Daejan Investments Limited v Benson and others [2013] UKSC 14. There is no evidence of any prejudice caused to the leaseholders and indeed none have raised an objection to the application, save Mr Dal Ben. Dispensation is therefore granted from the consultation process as provided for in the Regulations.

**Name:** Judge Dutton

**Date:** 8 February 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.

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

