



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

**Case reference** : **CAM/26UG/LDC/2023/0059**

**Property** : **Flats 1-17 Tollhouse Point, 220 London Road, St Albans, Herts, AL1 1NU**

**Applicant** : **220 London Road Management Company Limited**

**Representative** : **Collinson Hall Limited**

**Respondents** : **The Leaseholders**

**Representative** : **Not Applicable**

**Type of application** : **For dispensation under section 20ZA of the Landlord & Tenant Act 1985**

**Tribunal member** : **Tribunal Judge B MacQueen**

**Date of decision** : **26 January 2024**

---

**DECISION**

---

**Decision of the Tribunal**

1. The Tribunal determines that it is reasonable for the Applicant to dispense with the consultation requirements in relation to the works for the reasons set out in this decision.

**Introduction**

2. The Applicant sought an order pursuant to s.20ZA of the Landlord and Tenant Act 1985 (“the Act”) for dispensation of the consultation requirements in respect of remedial work to a lift, namely to renew the suspension traction media belts that have exceeded their natural life of 15 years. The work is urgent as an engineer’s report confirmed that the belts should be renewed on or before 25 July 2023.
  
3. The Applicant is the Landlord of the Property, and the Respondents are the Leaseholders.
  
4. A bundle of documents totalling 48 pages was provided by the Applicant. This included an engineering report dated 25 April 2023 from Zurich (Appendix 6), three quotations for the work (Appendix 7), a copy of the letter sent on behalf of the Applicant to Leaseholders which explained the reason for the application (Appendix 5), and, although not within the bundle, a specimen copy of the lease was included with the documents sent to the Tribunal.
  
5. The report from Zurich dated 25 April 2023 confirmed that in line with the Schindler lifts policy, the suspension traction media belts have exceeded their 15 year natural life and should be renewed on or before 25 July 2023. The Applicant therefore confirmed that the works are urgent to ensure the safety of people using the lift.
  
6. The letter sent to Leaseholders dated 5 December 2023 (Appendix 5 of the bundle) explained that urgent work was required to replace the suspension traction media belts and the three quotations for the works were set out. The Applicant confirmed in the letter that they intend to

use Associated Lifts to complete the work and that they would endeavour to use reserves to fund this work.

7. Within the application form, the Applicant stated that dispensation from the requirements to consult tenants before work was commenced was sought so that the lift could be repaired as quickly as possible.
8. On 27 November 2023, the Applicant made this application for dispensation.
9. On 4 December 2023, the Tribunal issued Directions. The Applicant was directed to send to each Respondent Leaseholder a copy of the application and the Tribunal's Directions, and also to display a copy of the application and the Tribunal's Directions in the common parts of the Property.
10. By email dated 5 December 2023, Tracy Hunter, Head of Block Management for the Applicant and responsible person, confirmed that the application had been sent to Respondent Leaseholders on 5 December 2023 by email and would be hand delivered/sent first class post on 6 December 2023.
11. The Respondents were directed to notify the Applicant and the Tribunal if they objected to the application by 10 January 2024.
12. None of the Respondents have objected to the application.

### **Relevant Law**

13. This is set out in the Appendix annexed below. The only issue for the Tribunal is whether it is reasonable to dispense with the statutory consultation requirements. This application does not concern the issue of whether any service charge costs will be reasonable or payable, or the possible application or effect of the Building Safety Act 2022.

### **Decision**

14. The Tribunal's determination took place without parties attending a hearing, in accordance with the Tribunal's Directions. This meant that this application was determined on 26 January 2024 solely on the basis of the documentary evidence filed by the Applicant. As stated earlier, no objections had been received from any of the Respondents nor had they filed any evidence.

15. The Tribunal noted that the Applicant was directed to display a copy of the application and Tribunal Directions in a prominent position in the common parts of the Property and that confirmation that this has been completed has not been received from the Applicant. However, the Tribunal is satisfied that the Leaseholders received a copy of the application and Directions as confirmed by Tracy Hunter's email of 5 December 2023. The Tribunal was therefore satisfied that the Respondent Leaseholders were aware of this application, and given the urgency, made its determination on the basis of the information before it without further delay.

16. The relevant test to be applied is set out in the Supreme Court decision in **Daejan Investments Ltd v Benson & Ors** [2013] UKSC 14 where it was held that the purpose of the consultation requirements imposed by section 20 of the Act was to ensure that tenants were protected from paying for inappropriate works or paying more than was appropriate. In other words, a tenant should suffer no financial prejudice in this way.

15. The issue before the Tribunal was whether dispensation should be granted in relation to the requirement to carry out statutory consultation with the leaseholders regarding the overall works. As stated in the Directions order, the Tribunal was not concerned about the actual cost that has been incurred.
16. The Tribunal noted that the need to replace the suspension traction media belts was highlighted to the Applicants by Zurich's report that was dated 25 April 2023 and additionally the renewal was due on or before 25 July 2023. The date of the quote from The Lift Company was 6 June 2023. Given the application to this Tribunal was not made until 27 November 2023 it is not clear why there was a delay. With that said, the Tribunal noted that the quote from Associated Lifts was dated 13 November 2023 and the quote from Unique Lifts was dated 17 November 2023. Therefore, given the urgent nature of the works, the Tribunal was content to proceed with this application as further delay would cause a risk to the safety of those using the lift. The Tribunal was also satisfied that the Respondents have been properly notified of this application and had not made any objections.
17. Accordingly, the Tribunal granted the application for the following reasons:
  - (a) The Tribunal was satisfied that the nature of the works had to be undertaken by the Applicant sooner rather than later and noted in particular that the natural life for the suspension traction media belts expired on 25 July 2023.
  - (b) The Tribunal was also satisfied that if the Applicant carried out statutory consultation, it was likely that there would be delay.

- (c) The Tribunal was satisfied that the Respondents have been kept informed of the need, scope and estimated cost of the proposed works.
  - (d) The Tribunal was satisfied that the Respondents have been served with the application and the evidence in support and there has been no objection from any of them.
  - (e) Importantly, the real prejudice to the Respondents would be in the cost of the works and they have the statutory protection of section 19 of the Act, which preserves their right to challenge the actual costs incurred by making a separate service charge application under section 27A of the Act.
18. The Tribunal, therefore, concluded that the Respondents were not being prejudiced by the Applicant's failure to consult and the application was granted as sought.
19. It should be noted that in granting this application, the Tribunal made no finding that the scope and estimated cost of the repairs are reasonable.

**Name:** Tribunal Judge  
Bernadette MacQueen

**Date:** 26 January 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).

## **Appendix of relevant legislation**

### **Landlord and Tenant Act 1985 (as amended)**

#### **Section 20**

- (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) the appropriate 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.

**Section 20ZA**

- (1) 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.