



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

Case Reference : **LON/00AY/LDC/2024/0621**

Property : **Fountain House, 16 St Georges Wharf
London SW8 2LJ**

Applicant : **Fairhold Holdings (2005) Limited**

Representative : **Monique McKenzie, Property Manager,
Rendall and Rittner**

Respondents : **The leaseholders named on the
application**

Type of Application : **For dispensation from the consultation
requirements under section 20ZA
Landlord & Tenant Act 1985**

Tribunal : **Mr R Waterhouse BSc (Hons) LL.M
Property Law MA FRICS**

Date of Decision : **3 February 2025**

DECISION

This has been a remote paper determination, which has been consented to by the parties. A face-to-face hearing was not held because it was not practicable, and no one requested same.

The documents the Tribunal were referred to were in a bundle of some 56 pages.

Decision

- (1) The Tribunal determines that unconditional dispensation should be granted from the consultation requirements from section 20ZA of the Landlord and Tenant Act 1985 (the Act) in respect of this application for the property Fountain House, 16 St Georges Wharf, London SW8 2LJ.**
- (2) We make no determination as to the reasonableness of the costs of same, these being matters which can be considered, if necessary, under the provisions of s27A and s19 of the Act.**

The application

1. This Application is made by Berkeley Seventy-Seven Limited and Fairhold Holdings (2005). Subsequently amended to Fairhold Holdings (2005) only.
2. The Application seeks dispensation from the consultation requirements under section 20ZA of the Landlord and Tenant Act 1985.
3. The Application is concerned solely with the question of what consultation if any should be given of the consultation requirements of section 20 of the 1985 for works costing in excess of £250 per flat. It is not concerned with the reasonableness or payability of any service charges which may arise.

The Determination

4. A written Application was made by Berkeley Seventy-Seven Limited and Fairhold Holdings and the Tribunal considered the written bundle of 56 pages, in support of the Application.

Background

5. The property Fountain House, St George Wharf, is located in Vauxhall was completed in 2000. There are eleven floors in total above ground Fountain House stands at approximately 45 metres and is home to 34 apartments.
6. This Application has been issued because “urgent action was required to repair the door operator of the lift due to critical life safety issue as it is a firefighting lift. This has a closed protocol, which prevents us from completing a full tender process under Section 20 requirements.”

7. Under the Application, “Grounds for Seeking Dispensation” it is further noted that the only company under the closed protocol that could attend to the repairs was a company called Kone. A quotation was received from the encumbrant service provider- Kone- to replace the door operator system and the total cost of the works, inclusive of VAT = £11,922.26. The works commenced in August 2024. Firefighting lifts operate on a dedicated power supply and have override controls for use in emergencies. A failing door operator could interfere with these critical functions, hindering firefighting efforts.”
8. The Application notes that “we have not been able to consult in accordance with the Section 20 requirements due to the “closed protocol that is in place.”
9. The Application seeks specific dispensation in terms of;

“Urgent lift door operator replacement of a firefighting lift
 1. In the event that the Tribunal concludes the lift operator door replacement are qualifying works, we seek dispensation from the requirements to:
 - (a) Issue a notice of intention to leaseholders.
 - (b) Send a notice of estimates to leaseholders; and
 - (c) Obtain more than one quote.

Under (a) and (b), because we are unable to conduct consultation, no notice of intention has been served, and sending a notice of estimates with a single contractor and quotation would serve no useful purpose. The leaseholders will be aware following service of this application of the need to replace the lift door operator, and the inability to obtain any other quotes, and the price quoted by Kone.

The dispensation under (c) is sought since the closed protocol nature of the system means that there is only a single provider (Kone) who can perform the necessary upgrade works, meaning we are unable to obtain any other quote.”

10. The Directions dated **4 December 2024**, provided for the tenants to be given copies of the Application form, a brief statement to explain the reasons for the Application and display a copy of the directions in a prominent place in the common parts of the property. This to be done by the **11 December 2024** and the Tribunal notified as such by the **13 December 2024**.

11. The Directions also note that any leaseholder who opposes the Application should by the **20 December 2024** complete the reply form and return it to the Tribunal. The Landlord may by the **8 January 2025** provide a brief reply to any leaseholder who opposes the Application.

12. By an Application and requests for case management or other interim orders dated 2 January 2025 the Applicant Rendall and Rittner on behalf of the Landlord sought to amend the Landlord to Fairhold Holdings (2005) Limited only, and to amend the working of the reason seeking dispensation to;
 - (a) The lift is used for firefighting being a safety requirement

 - (b) There was a risk of passenger entrapment in the lift car

 - (c) Kone had the available parts and expertise to repair the lift in the shortest period of time”

Amended Directions were issued on **9 January 2025** which provided for amending the Landlord to solely Fairhold Holdings (2005) and the date at which the Landlord should send the Respondents who oppose the Application, a statement of case, which they later seek to rely upon, by the **20 January 2025**.

13. The only issue for the Tribunal is whether or not it is reasonable to dispense with the statutory consultation requirements of section 20 of the 1985 Act. **This application does not concern the issue of whether any service charge costs will be reasonable or payable.**

Documents

14. The Applicant in their bundle [1] notes that no objections by leaseholders have been received.

The Tribunal's decision

15. The Tribunal grants dispensation under section 20 ZA of the Landlord and Tenant Act 1985 and the Service Charges (Consultation) (England) 2003 for the works set out in the application.

16. We are, aware of the judgment in Daejan Investments Limited v Benson and others [2013] UKSC 14. The application for dispensation is not challenged.

17. The Supreme Court (Lord Neuberger at para 50) accepted that there must be real prejudice to the tenants. Indeed, the Respondents do not oppose the application. It is accepted that we have the power to grant dispensation on such terms as we think fit. However, the Landlord is entitled to decide the identity of the contractors who carry out the work, when they are done, by whom and the amount. The safety net for the Respondents is to be found in sections 19 and 27A of the Landlord and Tenant Act 1985.
18. Accordingly, we find that unconditional dispensation should be granted for the works identified at paragraph 12 in this decision.
19. Our decision is in respect of the dispensation from the provisions of s20 of the Act only. It is open to the opposing leaseholder or others to apply under the Landlord and Tenant Act 1985 Section 27A, should there be concerns over the payability and reasonableness of the service charge, these may include concerns over necessity, quality of work and its cost.

Richard Waterhouse

**Name: Richard
Waterhouse LLM 3 February 2025
FRICS**

ANNEX – RIGHTS OF APPEAL

- 1. 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 at the Regional Office which has been dealing with the case.**
- 2. 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.**
- 3. If the application is not made within the 28-day time limit, such application must include a request to 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.**
- 4. The application for permission to appeal must identify the decision of the Tribunal to which it relates (ie 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**