



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

**Case Reference** : **MAN/00FF/LDC/2023/0048**

**Property** : **Woodsmill Quay, Skeldergate, York,  
YO1 6DX**

**Applicant** : **Woodsmill Limited**

**Representative** : **Watson**

**Respondents** : **Various Residential Long  
Leaseholders**

**Type of Application** : **Section 27A Landlord and Tenant Act  
1985 – Section 20ZA**

**Tribunal Members** : **Tribunal Judge J.E. Oliver  
Tribunal Member H. Lewis**

**Date of  
Determination** : **29<sup>th</sup> January 2025**

**Date of Decision** : **5<sup>th</sup> February 2025**

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**DECISION**

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## Decision

1. The application to dispense with the consultation requirements imposed by Section 20 of the Landlord and Tenant Act 1985 (“the Act”) and The Service Charges (Consultation Requirements) (England) Regulations 2003 relating to works carried out to the lift in one of the blocks comprising Woodsmill Quay, York is refused.

## Background

2. This is an application made by Watson on behalf of Woodsmill Ltd (“the Applicant”) for the dispensation of the consultation requirements imposed by Section 20 of the Landlord & Tenant Act 1985 (“the Act”) and The Service Charges (Consultation Requirements) (England) Regulations 2003 (“the Consultation Requirements”) relating to repairs to a lift in one of the 5 blocks comprising Woodsmill Quay, York (“the Property”). Such works are qualifying works as defined by section 20 of the Act.
3. In its statement to the Tribunal the Applicant advised the lifts were previously serviced by White Lift Services on 15<sup>th</sup> July 2022. The contract for the lift maintenance was then changed to Ace Elevators Northern Ltd in 2023. It inspected the lifts and provided a quote, dated 21<sup>st</sup> March 2023, *“recommending that the existing control panel be upgraded for a new panel which would include associated wiring and a more reliable method of levelling complete with car top control station. The new controller will provide diagnostics in the event of failure allowing for much quicker fault finding.”* The quote for such work was £17139.12 including VAT.
4. In its statement to the Tribunal the Applicant advised its directors had decided to proceed with the works without obtaining any other quotes as *“Ace has provided the only quote for the necessary repairs, which was agreed upon by the directors. The directors felt that ACE, as the current service contract holder, was best positioned to undertake the work given their familiarity with the lift’s recent history and ongoing issues.”*
5. The work was subsequently completed, the date of which was not told to the Tribunal but was done without the necessary consultation required by section 20 of the Act. The Applicant stated *“The building’s lift requires daily use, which left us without the time necessary to complete a Section 20 consultation process before proceeding with the repairs.”*
6. The Applicant has an obligation to maintain the lifts under the terms of the Leases under which the apartments comprising the Property are held. The Property is a 5-storey converted mill containing 39 apartments over the 5 floors.
7. The application to the Tribunal is dated 18<sup>th</sup> July 2023 and in respect of which directions were issued on 23<sup>rd</sup> August 2024 providing for the filing of any objections by the Respondents and for the application to be determined without a hearing.
8. The Respondents were notified of the application by Watson on 5<sup>th</sup> September 2024; there were no responses to the application.
9. The matter was listed for a determination on 29<sup>th</sup> January 2025.

## The Law

### 10. Section 20 of the Act provides:

*(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 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 the 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”*

### 11. In the event the requirements of section 20 have not been complied with, or there is insufficient time for the consultation process to be implemented, then

an application may be made to the First-tier Tribunal pursuant to section 20ZA of the Act.

12. Section 20ZA of the Act provides:

- (1) *Where an application is made to a tribunal for a determination to dispense with all or any 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*
- (2) *In section 20 and this section-*  
*“qualifying works” means works on a building or any other premises, and*  
*“qualifying long term agreement” means (subject to section (3)) an agreement entered into, by or on behalf of the landlord or a superior landlord, for a term of more than twelve months.*

13. In **Daejan Investments Ltd v Benson [2013] UKSC 14** it was determined that a Tribunal, when considering whether to grant dispensation, should consider whether the tenants would be prejudiced by any failure to comply with the Consultation Requirements.

14. In **Wynne v Yates and others [2021] UKUT 278 LC** Upper Tribunal Judge Elizabeth Cooke said:

*“There must be some prejudice to the tenants beyond the obvious fact of not being able to participate on the consultation process.”*

15. In **RM Residential Ltd v Westacre Estates Limited & Bellrise Designs Ltd [2024] UKUT 56(LC)** Upper Tribunal Judge Elizabeth Cooke determined that urgency is not a pre-condition to dispensation and said:

*“The idea that if the works are not urgent the appellant had not established the “basic right” to a dispensation is a misconception. There is no requirement of urgency on section 20ZA. Nor, for that matter, is there a “basic right” to a dispensation; it is a matter of discretion; but to impose a precondition that is not in the statute is to exceed the bounds of that discretion.”*

### Determination

16. The Tribunal is being asked to exercise its discretion under section 20ZA of the Act. Section 20ZA (1) provides the Tribunal may do so where *“if satisfied that it is reasonable to dispense with the requirements”*.
17. The Tribunal, having considered the submissions made by the Applicant, is not satisfied there is good reason to dispense with the consultation requirements.
18. The Applicant has produced a report to say works were required to a lift; there is nothing in that quote to indicate the work is urgent such as to make it necessary to carry to the works without complying with the consultation requirements contained within section 20 of the Act.
19. The Applicant stated the lift is in daily use and therefore there was insufficient

time to comply with section 20, but the Tribunal was not advised why this was the case. There was nothing in the quote from ACE to show urgent works were required, other than a recommendation a control panel be replaced. The Applicant has also stated the directors decided not to seek any alternative quotes for the lift repairs upon the basis ACE was familiar with the lift's recent history and ongoing issues and therefore best positioned to undertake the works. The Tribunal does not consider this to be a reasonable excuse for failing to look to other lift repairers. Again, the Tribunal was not told the lift had any special qualities to make ACE the only suitable repairer.

20. The Tribunal determines the Respondents have been prejudiced. Whilst there have been no objections to the application by the Respondents, they have, by the Applicant's actions, been deprived of the opportunity to suggest a better or cheaper alternative to the cost of the work. Furthermore, the Respondents were not given any explanation as to why this was an urgent repair, rather than a recommendation as detailed in the ACE quotation
21. The Applicant made no attempts to comply with section 20, instead relying upon the dispensation available by section 20ZA.

### **Rights of appeal**

1. 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.
2. If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber), then a written application for permission to appeal must be made to the First-tier Tribunal at the regional office which has been dealing with the case.
3. 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.
4. If the application is not made within the 28 day time limit, such applications 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.
5. 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 rounds of appeal and state the result the party making the application is seeking.
6. If the Tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).