



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

Case reference : **MAN/00DA/LDC/2023/0078**

Property : **Skyte House, Queenshill Avenue, Leeds LS17 6BF**

Applicant : **Leeds Jewish Housing Association**

Representative : **N/A**

Respondents : **Tenants of Nos 1-41 Skyte House**

Type of Application : **Landlord & Tenant Act 1985 - Section 20ZA**

Tribunal Members : **Mr J Platt FRICS, FTPI
Mr J Gallagher MRICS**

Date of Paper Determination : **30 April 2025**

DECISION

DECISION

1. Pursuant to section 20ZA of the Landlord and Tenant Act 1985 the tribunal makes a determination to dispense with the requirement to consult with the Respondents on the refurbishment works to the lift as detailed in the works order dated 31 January 2024.

REASONS

The Application

2. The application ('the Application') was made on 29 November 2023 by Leeds Jewish Housing Association ('the Applicant'). It seeks dispensation under section 20ZA of the Landlord and Tenant Act 1985 ('the Act') in relation to the statutory consultation requirements prescribed by section 20.
3. Dispensation is sought for lift refurbishment works ('the Works'). The Works were carried out, in early 2024, at Skyte House, Queenshill Avenue, Leeds LS17 6BF ('the Property'); a sheltered housing scheme comprising 40 self-contained residential apartments. The Applicant is the freehold proprietor of the Property and the Respondents are the assured / assured shorthold tenants of the 40 residential apartments.
4. A sample tenancy agreement evidences that the tenants' obligations include the payment of either a fixed or variable service charge towards costs incurred in providing services detailed in a schedule of services. The schedule of services include repairs to the lift. The Applicant has confirmed that all 40 tenancy agreements include similar provisions for the recovery of costs by way of variable service charges.
5. Directions were issued on 12 February 2025. The Applicant submitted a bundle of papers including a statement of case and supporting documents. The Applicant seeks dispensation based on its evidence that:

LJHA is seeking dispensation to consult on major works to a passenger lift. The lift is 18 years old and requires a major overhaul 7 years earlier than expected which prevented the usual planning that would have been implemented. A temporary repair has been carried out, however the contractors have advised that this is a short term solution that could result in the lift failing at any time. The contractor have also indicated that once failed it cannot be repaired further.

This is a sheltered housing scheme with all residents over 65 years old. There are many residents with significant frailties including many unable to use stairs to leave their home. The cost of the works are estimated to be £40,000 which equates to £1,000 per tenant.

6. The Applicants' evidence includes: a tender evaluation, works order dated 31 January 2024 and invoices submitted by Caledonian Lifts Manchester Ltd. The Tribunal, therefore, understands that the works have already been undertaken and the Applicant, in effect, seeks retrospective dispensation.
7. None of the Respondents submitted a statement to the tribunal opposing the Application and the Applicant has confirmed that none of the Respondents has submitted any objections to the Application directly to itself.

8. The Applicant indicated that it would be content with a determination on the papers. The tribunal considered this to be appropriate because none of the Respondents opposed the Application, neither party had requested a hearing and because there was sufficient information before the tribunal to reach a decision. In view of the matters in issue, it was unnecessary to conduct an inspection of the Property.

The Law

9. Extracts from sections 20 and 20ZA of the Act are reproduced in Schedule 1. Section 20ZA subsection (1) provides that the tribunal may make a determination to dispense with consultation requirements 'if satisfied that it is reasonable to dispense with the requirements'.
10. The tribunal considers the leading case on dispensation to be the Supreme Court decision in *Daejan Investments Limited v Benson and Others* [2013] UKSC 14 ('*Daejan*'). In *Daejan*, Lord Neuberger stated that in deciding pursuant to section 20ZA whether it is reasonable to dispense with consultation requirements, a tribunal should consider whether any relevant prejudice would be suffered by the leaseholders. Lord Neuberger stated that whilst the legal burden of proof rests throughout on the landlord, the factual burden of identifying some relevant prejudice that they would or might have suffered rested on the tenants. Lord Neuberger went on to hold that a tribunal is permitted to grant dispensation on terms, including compensating leaseholders for any prejudice suffered by requiring a landlord to reduce the amount claimed as service charge, and including an order for costs.

Findings of fact and Reasons for decision

11. None of the Respondents have submitted a statement of case opposing the Application. There is no evidence before the tribunal that any of the Respondents consider themselves to be prejudiced in any way by the absence of a section 20 consultation exercise.
12. The Applicant has acted in accordance with the recommendations of its professional advisors in undertaking refurbishment works to the lift.
13. The Applicant engaged with the Respondents on its proposals to undertake the Works.
14. The tribunal finds that there is no relevant prejudice identified by any Respondent, suffered as a consequence of the Applicant proceeding with the Works without first carrying out the section 20 consultation.
15. The Respondents have made no representation as to any condition the tribunal might impose in granting dispensation, and there is no evidence of any cost being incurred by the Respondents that should appropriately be met by the Applicant.
16. In these circumstances, the tribunal considers it reasonable to dispense with consultation requirements unconditionally. Accordingly, the tribunal makes a determination, under section 20ZA of the Act, to dispense with the requirement to consult with the Respondents under section 20 in relation to the Works, as detailed in the works order dated 31 January 2024.
17. The tribunal expresses no view as to whether any costs associated with the Works are reasonable in amount, whether the Works were necessary or of a reasonable standard or whether the costs intended to be recovered by way of service charge are contractually payable under the tenancy agreements or within the meaning of

‘relevant costs reasonably incurred’ in sections 19 and 27A of the Act. No such applications are currently before this Tribunal and the Tribunal’s decision does not include or imply any determination of such matters.

Schedule 1

Extracts from legislation

Landlord and Tenant Act 1985

Section 20

(Subsections (1) and (2):)

(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 under the agreement.

Section 20ZA

(Subsection (1))

(1) Where an application is made to a 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.