



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

Case Reference	: HAV/45UC/LDC/2025/0643
Property	: Compass Point, The Esplanade, Bognor Regis, PO21 1NX
Applicant	: Compass Point (Bognor Regis) Management Ltd
Representative	: Stride & Son
Respondent	: The Leaseholders
Representative	:
Type of Application	: To dispense with the requirement to consult lessees about major works section 20ZA of the Landlord and Tenant Act 1985
Tribunal Member	: Regional Surveyor Clist MRICS
Date of Directions	: 17 June 2025

Decision

Summary of the Decision

The Applicant is granted dispensation under Section 20ZA of the Landlord and Tenant Act 1985 from the consultation requirements imposed on the landlord by Section 20 of the 1985 Act in respect of major works, being works of repair to a lift. The Tribunal has made no determination on whether the costs of the works are reasonable or payable.

Background

1. The Applicant seeks dispensation under Section 20ZA of the Landlord and Tenant Act 1985 from the consultation requirements imposed on the landlord by Section 20 of the 1985 Act. The application was received by email on 25 April 2025.

The property is described as a:

“Purpose built block of 24 high-rise apartments of high quality finish, built approx 2008. Residents Management Company own the freehold”.

2. The Applicant explains that:

“Essential works to lift:-

- Landing door lock contacts
- Replace overspeed governor, governor tension weight switch and governor rope
- Replace STM belts and pulleys
- Replace car top lamp

No provisions of Building Safety Act 2022 relevant.

Works to be ordered June 2025 and carried out July 2025.

Letter and copy quote to all leaseholders.”

3. Dispensation is sought because:

“Schindler installed original lift and are the sole appointed maintenance contractor. They have provided discounted pricing for this work. The work should be programmed for as soon as possible to avoid lengthy period of outage. The Freeholder wishes Schindler to carry out the work, not any alternative contractor”.

4. The Tribunal made Directions on 22 May 2025 for the Applicant to serve to the Lessees together with a form for them to indicate to the Tribunal whether they agreed with or opposed the application and whether they requested an oral hearing. If the Leaseholders agreed with the application or failed to return the form they would remain bound by the Tribunal’s Decision. The Application would be determined on the papers, unless either party requested a hearing within 7 days, subject to a review of the Lessees’ responses.

5. **The only issue for the Tribunal is whether or not it is reasonable to dispense with the statutory consultation requirements. This application is not about the proposed costs of the works, and whether they are recoverable from the leaseholders as service charges or the possible application or effect of the Building Safety Act 2022. The leaseholders have the right to make a separate application to the Tribunal under section 27A of the Landlord and Tenant**

Act 1985 to determine the reasonableness of the costs, and the contribution payable through the service charges.

Determination

The Law

6. Section 20 of the Landlord and Tenant Act 1985 (“the Act”) and the related Regulations provide that where the lessor intends to undertake major works with a cost of more than £250 per lease in any one service charge year the relevant contribution of each lessee (jointly where more than one under any given lease) will be limited to that sum unless the required consultations have been undertaken or the requirement has been dispensed with by the Tribunal. An application may be made retrospectively.
7. Section 20ZA provides that on an application to dispense with any or all of the consultation requirements, the Tribunal may make a determination granting such dispensation “if satisfied that it is reasonable to dispense with the requirements”.
8. The appropriate approach to be taken by the Tribunal in the exercise of its discretion was considered by the Supreme Court in the case of Daejan Investment Limited v Benson et al [2013] UKSC 14.
9. The leading judgment of Lord Neuberger explained that a tribunal should focus on the question of whether the lessee will be or had been prejudiced in either paying where that was not appropriate or in paying more than appropriate because the failure of the lessor to comply with the regulations. The requirements were held to give practical effect to those two objectives and were “a means to an end, not an end in themselves”.
10. The factual burden of demonstrating prejudice falls on the lessee. The lessee must identify what would have been said if able to engage in a consultation process. If the lessee advances a credible case for having been prejudiced, the lessor must rebut it. The Tribunal should be sympathetic to the lessee(s).
11. Where the extent, quality and cost of the works were in no way affected by the lessor’s failure to comply, Lord Neuberger said as follows:

“I find it hard to see why the dispensation should not be granted (at least in the absence of some very good reason): in such a case the tenants would be in precisely the position that the legislation intended them to be- i.e. as if the requirements had been complied with.”
12. The “main, indeed normally, the sole question”, as described by Lord Neuberger, for the Tribunal to determine is therefore whether, or not,

the Lessee will be or has been caused relevant prejudice by a failure of the Applicant to undertake the consultation prior to the major works and so whether dispensation in respect of that should be granted.

13. The question is one of the reasonableness of dispensing with the process of consultation provided for in the Act, not one of the reasonableness of the charges of works arising or which have arisen.
14. If dispensation is granted, that may be on terms.
15. The effect of Daejan has been considered by the Upper Tribunal in *Aster Communities v Kerry Chapman and Others* [2020] UKUT 177 (LC), although that decision primarily dealt with the imposition of conditions when granting dispensation and that the ability of lessees to challenge the reasonableness of service charges claimed was not an answer to an argument of prejudice arising from a failure to consult.

Decision

16. The Tribunal has not received any responses from the Lessees either in support or objection to the application.
17. I have considered the application form dated the 25th April 2025 and the attachments to the same. It sets out that during 2024 there were reliability issues with the subject lift. The sole appointed contractor has undertaken a review of the lift's condition recommending the required works of repair. The Applicant wishes to undertake the said repairs as soon as possible to avoid a lengthy period of outage and to benefit from the time-limited discounted quotation for the works.
18. I accept the facts set out in the application. I am satisfied that these facts *prima facie* are sufficient to justify making an application for dispensation from consultation requirements given the time such consultation will take. I am satisfied that it is reasonable to endeavour to undertake such works by the ongoing contractor who has provided a discounted quotation for a limited period for all works to be undertaken at the same time.
19. In reaching my decision I have taken account of the fact that no party has objected to the application. The leaseholders have had opportunity to raise any objection and they have not done so.
20. I grant dispensation pursuant to Section 20ZA of the Landlord and Tenant Act 1985 from consultation subject to a condition that a copy of this decision shall be served by the Applicant upon all leaseholders of the Property.
21. For completeness I confirm in making this determination I make no findings as to the liability to pay or the reasonableness of the estimated costs of the works.

RIGHTS OF APPEAL

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application by email to rpsouthern@justice.gov.uk
2. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.
3. If the person wishing to appeal does not comply with the 28 day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28 day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.