



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

|                            |          |                                                                                                                           |
|----------------------------|----------|---------------------------------------------------------------------------------------------------------------------------|
| <b>Case reference</b>      | <b>:</b> | <b>LON/00BK/LDC/2025/0710</b>                                                                                             |
| <b>Property</b>            | <b>:</b> | <b>Abell House, 31 John Islip Road,<br/>London SW1P 4FE</b>                                                               |
| <b>Applicant</b>           | <b>:</b> | <b>Harland (PC) Limited</b>                                                                                               |
| <b>Representative</b>      | <b>:</b> | <b>The Residential Management Group<br/>Limited</b>                                                                       |
| <b>Respondent</b>          | <b>:</b> | <b>Leaseholders of flats at the Property,<br/>whose details appear on the schedule<br/>annexed to the application</b>     |
| <b>Representative</b>      | <b>:</b> | <b>n/a</b>                                                                                                                |
| <b>Type of application</b> | <b>:</b> | <b>To dispense with the requirement to<br/>consult lessees about major works,<br/>s.20ZA Landlord and Tenant Act 1985</b> |
| <b>Tribunal members</b>    | <b>:</b> | <b>Judge Mark Jones<br/>Ms Rachael Kershaw BSc</b>                                                                        |
| <b>Venue</b>               | <b>:</b> | <b>10 Alfred Place, London WC1E 7LR</b>                                                                                   |
| <b>Date of hearing</b>     | <b>:</b> | <b>16 July 2025</b>                                                                                                       |
| <b>Date of decision</b>    | <b>:</b> | <b>16 July 2025</b>                                                                                                       |

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**DECISION**

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**Summary of the Decision**

- 1. The Applicant is granted dispensation under Section 20ZA of the Landlord and Tenant Act 1985 (*“the 1985 Act”*) from the consultation requirements imposed on the landlord by Section 20 of the 1985 Act in respect of lift repair works within the Property between December 2024 and February 2025.**

2. **The Tribunal does not impose any conditions on the grant of dispensation.**
3. **The Tribunal has made no determination as to whether costs of the works are reasonable or payable.**

### **The Application**

4. The Applicant made application by notice dated 17 April 2025 for dispensation under Section 20ZA of the 1985 Act from the consultation requirements imposed by Section 20 of the 1985 Act, in respect of works undertaken at the Property which commenced in December 2024, comprising a series of repairs to one of the two car lifts serving the Property.
5. The property comprises the site known as Abell House located on John Islip Street in the heart of Westminster. Abell House is a 15-storey building containing 144 apartments, a leisure centre and a 3 basement levels of car parking with a two vehicle lift and plant and storage rooms. It directly faces Cleland House, which is a 15-storey building containing 131 apartments, a business centre and a 3 basement levels of car parking with a two vehicle lift and plant and storage rooms.
6. The Application is predicated on the basis of the works in issue being urgently required, where one of the two car lifts serving Abell House failed in August 2024, and the underground car park serving Abell House can only be accessed by car lift from street level.

### **The Applicant's Case**

7. On 06 August 2024, the Applicant was made aware that the entry car lift had broken down in Abell House car park. The block surveyor reported that the bracket holding ram had failed, allowing the ram to twist and bend against the car lift. He recommended that the KONE specialist team should carry out further investigation of the issue. The Applicant notified the Leaseholders via the electronic portal that the lift was out of order and repair works would be required. During this time, the affected Abell House Leaseholders were offered the opportunity to park in the Cleland House car park.
8. Because the lift had been supplied and fitted, and was regularly inspected and maintained by KONE, the Applicant sought that organisation's urgent assistance. The Applicant was advised that because the lift is a KONE lift, only KONE parts would be compatible with the necessary repairs, and only KONE authorised operatives or specialist subcontractors could undertake the works, which imposed a limitation on a wider tendering exercise.

9. On 07 August 2024, the KONE hydraulic team carried out an inspection of the lift ram.
10. Following inspection, on 22 August 2024, KONE submitted a quote of £95,670.83 excluding VAT to reinstate the unit to full service. Due to the high cost, the Applicant appointed the independent testing and certification agency TÜV SÜD to review the quote and requested a detailed report from KONE.
11. On 27 August 2024, KONE's report concluded that the ram was not salvageable due to scoring and possible bend in the ram. The motor, pump and soft start were also beyond repair. The recommended option was to replace both lift jacks and power unit and install new Bucher equipment.
12. Following reviews, the Applicant attempted to negotiate KONE's price down, and on 03 September 2024, KONE submitted a revised quote, in the sum of £82,003.57 excluding VAT for the necessary remedial works.
13. On 11 September 2024, TÜV SÜD requested technical and Health & Safety information from KONE and carried out a site-based survey of the lift. Thereafter, on 18 September 2024, TÜV SÜD raised a complaint with KONE, citing negligence by KONE in its carrying out of routine maintenance checks.
14. Following a meeting on site between representatives of TÜV SÜD and KONE on 26 September 2024, KONE arranged for a different specialist subcontractor to survey the lift and prepare a quote, which was submitted by KONE on 16 October 2024 in the substantially reduced sum of £61,754.88 excl. VAT.
15. The qualifying works included:
  - Install 5000kg lifting beam to top of shaft and test (DELMARK)
  - Position the lift car to the correct height for the operation - mid shaft.
  - Suspend the lift car from the rated shaft lifting beam using two tackles/slings.
  - Isolate the lift electrically and hydraulically – LOTO.
  - Insert pit props into the pit area for safe access as required.
  - De-pressurise the system.
  - Drain all oil from system for approved disposal.
  - Remove cylinders from lift shaft for disposal.
  - Install new cylinders into position and set plumb into existing cylinder clamps.
  - Replace all hydraulic hoses and unions.
  - Make all hydraulic connections using new adaptors and bonded washers.

- Pour in new 46 Grade HVI hydraulic oil to optimum level.
  - Charge system and purge of air.
  - Connect cylinders to lift car.
  - Clean pit area thoroughly
  - Raise lift car and isolate electrically and hydraulically – LOTO.
  - Remove pit props from shaft area.
  - Remove all equipment from shaft.
  - Test lift over and under travels.
  - Thoroughly test operation of lift
  - Load test lift.
  - Carry out SAFed A.15 hydraulic system.
  - Check for leaks.
  - Return lift to service.
16. TÜV SÜD advised the Applicant that the revised quotation was reasonable for the scope of works, and acting upon such advice the Applicant raised an order with KONE for the works to commence.
17. The Applicant considered it urgent for the remedial works to be carried out to restore normal service of equipment and minimise inconvenience to the Leaseholders.
18. The works commenced in December 2024 and completed early 2025, whereupon the car lift was and is back in service.
19. The Applicant provided the Leaseholders regular updates on the progress of the works via an online live portal, including:
- On 06 August 2024, advising the lessees of the defective state of the lift and of the urgent request for an inspection and advice as to necessary remedial works.
  - On 12 and 13 September 2024, advising as to progress.
  - On 3 December 2024, advising as to progress.
20. The cost of the repairs exceeded the £250 threshold in S.20 of the 1985 Act, being an estimated £61,754.88 + VAT in total. The Applicant contends that it was not reasonable to delay works pending full statutory consultation.
21. The application for dispensation was made on 17 April 2025 and the leaseholders were advised of the application and its terms on that date.

### **Mode of Determination**

22. In its application the Applicant stated that it would be content with a paper determination if the Tribunal considered it appropriate.

23. By its directions made on 08 May 2025 the Tribunal allocated the case to the paper track (i.e. without giving directions for an oral hearing), but directed that any party had the right to request an oral hearing.
24. Copies of the Tribunal's directions dated 08 May 2025 were circulated to each leaseholder on 09 May 2025.
25. Written objections to the application were received from 4 separate leaseholders, addressed in more detail below. Of those, one - Hui Ying Zhang, requested an oral hearing in the completed Reply form dated 13 May 2025. The Tribunal therefore listed the matter for an oral hearing on Wednesday 16 July 2025.
26. By written application in Form order 1 dated 10 June 2025, Ms Noemi of RMG, the Applicant's managing agent, applied for the hearing to be vacated and the matter to be determined on paper.
27. In response, by written application dated 11 June 2025, the Respondent Huijun Zhou made various representations and expressly requested that the matter remain listed for oral hearing on Wednesday 16 July 2025. The hearing accordingly remained listed on that date, to commence at 10 am.

### **The Hearing**

28. The hearing duly proceeded, after a delay to ascertain whether anyone would attend on behalf of the Respondents.
29. Three representatives of RMG attended punctually on behalf of the Applicant, namely Mr Yaasir Jamalkhan, Senior Property Services Advisor, Ms Karine Noemi, Property Services Advisor, and Mr Adam Norwood, Associate Director (Property). Each had provided short witness statements dated 09 July 2025 essentially confirming the contents of the Applicant's statement of case.
30. Mr Jamalkhan took the lead in addressing us on behalf of the Applicant, and we were assisted on occasions by Ms Noemi and Mr Norwood. We are grateful to each of them for their attendance, and assistance.
31. By contrast, where two of the Respondents (Hui Ying Zang, and Huijun Zhou) had each expressly requested an oral hearing, against the Applicant's request that the matter be determined on paper, most regrettably no Respondent attended the hearing, and none were represented.
32. In response to an email from the Case Officer sent shortly after the hearing was due to commence, Hui-Ying Zang, Tzu-Hsin Lu and Huijun Zhou each emailed the Tribunal between 10.11 and 10.14 am to indicate that they would not be in attendance, the latter because she was out of

the country. Eric Lu emailed at 11.01 am on behalf of Yu-En Lu to indicate that he and/or they, too, was/were overseas.

33. The papers received including the Respondents' objections and the Applicant's hearing bundle comprising some 208 pages were considered, the latter augmented by the witness statements of RMG's representatives, and some additional material that was submitted shortly before the hearing, including KONE's standard terms and conditions, confirmation of the £82,003.57 + VAT estimate dated 03/09/2024 that had erroneously been omitted from the bundle, and some 7 pp of emails passing between October and November 2024 between representatives of RMG and KONE confirming submission of a purchase order to commission the works against the lower quotation in late October 2024.
34. Whilst the Tribunal makes it clear that it has read the bundle, the Tribunal does not refer to every one of the documents in detail in this Decision, it being impractical and unnecessary to do so. Where the Tribunal does not refer to specific documents in this Decision, it should not be mistakenly assumed that the Tribunal has ignored or left them out of account.

### **The Law**

35. The relevant section of the 1985 Act reads as follows:

*"S.20 ZA Consultation requirements:*

*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."*

36. The issues arising on such applications were examined in detail by the Supreme Court in the case of ***Daejan Investments Ltd v Benson*** [2013] UKSC 14; [2013] 1 WLR 854. In summary the Supreme Court considered the width and flexibility of Tribunal's jurisdiction under s.20ZA(1) to dispense with the consultation requirements set out in the Service Charges (Consultation Requirements) (England) Regulations 2003 Sch.4 Pt 2, and the principles upon which that jurisdiction was to be exercised, as follows:

- 36.1 The main question for the Tribunal when considering how to exercise its jurisdiction in accordance with section 20ZA is the real prejudice to the tenants flowing from the landlord's breach of the consultation requirements.
- 36.2 The financial consequence to the landlord of not granting a dispensation is not a relevant factor. The nature of the landlord is not a relevant factor.

- 36.3 Dispensation should not be refused solely because the landlord seriously breached, or departed from, the consultation requirements.
- 36.4 The Tribunal has power to grant a dispensation as it thinks fit, provided that any terms are appropriate.
- 36.5 The Tribunal has power to impose a condition that the landlord pays the tenants' reasonable costs (including surveyor and/or legal fees) incurred in connection with the landlord's application under section 20ZA (1).
- 36.6 The legal burden of proof in relation to dispensation applications is on the landlord. The factual burden of identifying some "relevant" prejudice that they would or might have suffered is on the tenants.
- 36.7 The court considered that "relevant" prejudice should be given a narrow definition; it means whether non-compliance with the consultation requirements has led the landlord to incur costs in an unreasonable amount or to incur them in the provision of services, or in the carrying out of works, which fell below a reasonable standard, in other words whether the non-compliance has in that sense caused prejudice to the tenant.
- 36.8 The more serious and/or deliberate the landlord's failure, the more readily a Tribunal would be likely to accept that the tenants had suffered prejudice.
- 36.9 Once the tenants had shown a credible case for prejudice, the Tribunal should look to the landlord to rebut it.

### **Evidence**

- 37. The Applicant's case is summarised in paragraphs 7 to 20, above. It was augmented by helpful evidence elicited in response to questions from the Tribunal to the following effect.
- 38. In response to suggestions made by the Respondents that the service charges between Abell House and Cleland House were charged collectively, so that charges affecting the one would be demanded from leaseholders of both blocks, collectively, Mr Norwood explained that there was in fact a 3-tier system of charging. Costs specific to one block would be charged to leaseholders of that block so that, for example, repairs and maintenance to common parts of Abell House would be sought from leaseholders of that block and not from those of Cleland House, and vice versa.
- 39. By contrast, there were some shared facilities: Abell House contains a gym, and Cleland House a business centre, each for the use of residents

in both blocks. The costs of such shared facilities are apportioned between the leaseholders of both blocks.

40. As to car parking, including the use of the access lifts, these are apportioned between only such leaseholders of each specific block as actually lease one or more car parking spaces. It follows that no leaseholder that does not lease a car parking space will bear any part of the cost of the lift repairs in issue, which will (subject to the Tribunal's determination on the dispensation application) be sought by RMG on the Applicant's behalf solely from the leaseholders of Abell House that lease car parking spaces.
41. Mr Jamalkhan explained that the services of TÜV SÜD in advising and assisting in reducing the estimates from KONE were in fact entirely cost-neutral, where TÜV SÜD is retained annually to advise and supervise questions of lift maintenance undertaken by KONE, and provided its assistance within the terms of such retainer: no additional costs were incurred in securing what transpired to be a considerable saving of some £33,915.95, excl. VAT.

### **The Respondents' Objections**

42. Written objections were received from 4 Respondents: Yu-En Lu, Hui-Ying Zang, Tzu-Hsin Lu and Huijun Zhou (also known as Cynthia).
43. Of those persons, we were informed and accept that Yu-En Lu and Tzu-Hsin Lu are neither leaseholders of flats in Abell House, nor are they lessees of car parking spaces within that building, being leaseholders of flat 41 Cleland House and flat 15 Cleland House, respectively. They accordingly have no direct interest in the subject matter of the application for dispensation, where the Applicant cannot and will not be able contractually to seek contributions to the cost of repairing the car lift at Abell House from them. Nevertheless, where the tenor of the Respondents' objections suggests that some or all may act collectively, we shall consider the objections raised.
44. The grounds for opposition from Yu-En Lu and Tzu-Hsin Lu are to all intents identical, each being dated 29 May 2025, and rest on 4 premises. First, they assert that the car lifts at both Abell and Cleland House have been problematic for years, and were raised in 2021 during the process of sale of the freehold to the current Applicant, which acquired its title in November 2021.
45. Second, they assert a lack of competitive tendering, stating that the Applicant has produced no evidence of obtaining alternative quotes or conducting a competitive bidding process.
46. Third, they complain of unjustified use of reserve funds during the financial year 2023, and late delivery of service charge accounts for that year.

47. Fourth, it is asserted that it would be unreasonable to grant dispensation unless the Applicant provides clear documentation that (i) the repairs are not covered under an inherent defects warranty, (ii) the works were genuinely urgent, (iii) value for money was obtained through a fair tender process, and (iv) consultation was impracticable, not merely inconvenient.
48. In the email received at 11.01 am on 16 July 2025, Eric Lu on behalf of Yu-En Lu made a series of further observations essentially complaining about wide management issues going back for 7 years. As this email arrived more than an hour after the listed commencement of the hearing, it does not appear to have been copied to representatives of the Applicant, and they had no opportunity to address its contents, we do not take its contents into account in reaching our determination.
49. Huijun Zhou is, we are told and accept, the leaseholder of Flat 127 Abell House who does not lease a car parking space. She, too, has no direct interest in the subject matter of the application for dispensation, where the Applicant cannot and will not be able contractually to seek contributions to the cost of repairing the car lift at Abell House from her. Nevertheless, her objections are set out in a series of emails dated 17 April, 7 May and 18 June 2025, asserting a lack of communication regarding the issue with the car lift, a lack of consultation with leaseholders and essentially querying the urgency of repair.
50. Once more, where the tenor of the Respondents' objections suggests that some or all may act collectively, we shall consider the objections raised.
51. The only Respondent with a direct financial interest in the subject matter of this application is Hui-Ying Zang who is, we are told and accept, the leaseholder of Flat 9 Abell House, who *does* lease a car parking space in the basement car park underneath the building.
52. Her objections are contained in an email dated 13 May 2025, which essentially reiterates some of the points made by other Respondents as summarised above, as follows:

*"The works carried out to repair the car lift — costing over £60,000 — are significant. As such, I believe that proper consultation with leaseholders should have been undertaken prior to the commencement of the works. The Section 20 process exists to ensure transparency, allow leaseholders to raise concerns, seek alternative quotes, and assess the necessity and value of the proposed expenditure.*

*"Although I acknowledge the importance of keeping facilities like the car lift operational, bypassing the statutory consultation process removes our opportunity to participate in decisions that directly affect us financially. Notification through the portal does not, in my view, meet the legal standards of consultation required for major works of this scale.*

*"I therefore request that the tribunal refuse the application for dispensation, or at minimum, apply conditions that reflect the landlord's failure to follow due process."*

## **Determination**

53. Dispensation from the consultation requirements of S.20 of the 1985 Act may be given where the Tribunal is satisfied that it is reasonable to dispense with those requirements. Guidance on how such power may be exercised is provided by the leading case of *Daejan v Benson*, referred to above.
54. It is clear to the Tribunal that the works in question were required to rectify a situation which, if not truly to be categorised as an emergency (where leaseholders and sub tenants of Abell House were not directly prevented from accessing their property), certainly caused great inconvenience to those residents who wished to use the car park to park their vehicles. Delaying the works in order to comply with the full consultation requirement would have been seriously detrimental to the residents of the Property, exacerbating their difficulties in accessing their homes.
55. Considering the first objection summarised in §44, above, it may well be true that the car lifts at both blocks have been bedevilled with difficulties for years. We note that the specific issues raised regarding discussions in 2021 predate the Applicant's acquisition of its freehold title and appointment of RMG, but more fundamentally we find that in August 2024 the Applicant was presented with an acute situation of serious mechanical failure that it considered warranted comparatively swift rectification.
56. It is correct that there was no competitive tendering process: this is explained in substantial part by the Applicant being more or less required to accept KONE parts and authorised sub-contractors. The situation is however more nuanced than simply accepting that there was no bidding process, where with the assistance of TÜV SÜD the Applicant was clearly successful in achieving a saving of £33,915.95, excl. VAT, or some 35% net., against the original quotation.
57. The complaint regarding use of reserve funds in 2023 and late delivery of service charge accounts for that year is outside the scope of this application, and we have no evidence to support the allegation in any event.
58. We do not accept that it would be unreasonable to grant dispensation unless the Applicant proves that (i) the repairs are not covered under an inherent defects warranty, (ii) the works were genuinely urgent, (iii) value for money was obtained through a fair tender process, and (iv) consultation was impracticable, not merely inconvenient, it being unnecessary for the Applicant to prove those factors. We do however note that there is a substantial amount of correspondence to the effect that the defects in issue here were not covered by warranty, the situation created an obvious, objective urgency of repair, and that a substantial discount was obtained against the initial quotation

59. Where there was failure to comply with the statutory regime, the issue is simply whether by not being consulted the Respondents have suffered prejudice.
60. We find no evidence that non-compliance with the consultation requirements has led the Applicant to incur costs in an unreasonable amount or to incur them in the provision of services, or in the carrying out of works, which fell below a reasonable standard, so that non-compliance has in that sense caused prejudice to the leaseholders.
61. In the circumstances of this case the Tribunal finds nothing on the evidence to establish that the Respondents would suffer prejudice by the grant of dispensation from the statutory consultation procedure.
62. Accordingly, the Tribunal is satisfied that it is appropriate to dispense with the consultation requirements for the works in issue.
63. **The Tribunal therefore grants dispensation from the consultation requirements of S.20 Landlord and Tenant Act 1985 in respect of works of car lift repair within the Property, which concluded in or about February 2025.**
64. **The grant of dispensation is unconditional.**
65. **In granting dispensation, the Tribunal makes no determination as to whether any service charges are reasonable or payable. This determination does not affect the right of the Respondents to challenge the costs or standard of work if they so wish.**
66. **In accordance with paragraph 8 of the directions dated 08 May 2025, it is the Applicant's responsibility to serve a copy of the Tribunal's decision on all Respondent leaseholders to the application.**

**Name:** Judge Mark Jones

**Date:** 16 July 2025

### **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).