



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

Case Reference	:	HAV/21UC/LDC/2025/0667
Property	:	Rapala Court 2 Midway Quay Eastbourne East Sussex BN23 5DB
Applicant	:	The Boardwalk Management (Sovereign Harbour) Limited
Representative	:	Anthem Management Limited
Respondent	:	The Leaseholders
Representative	:	None
Type of Application	:	To dispense with the requirement to consult lessees about major works Section 20ZA Landlord and Tenant Act 1985.
Tribunal Member	:	Mr I R Perry FRICS
Date of Decision	:	15th July 2025

DECISION

Decision

The Tribunal determines that dispensation is granted under Section 20ZA of the Landlord and Tenant Act 1985 for the full replacement and certification works to replace the Automatic Transfer Switch in the sum of £9,042.67.

Background

1. The Applicant, The Boardwalk Management (Sovereign Harbour) Limited seeks dispensation under Section 20ZA of the Landlord and Tenant Act 1985 (“the Act”) from the consultation requirements imposed on the Landlord by Section 20 of the Act. The application was received on 9th June 2025.

2. The Property is described as :

“Rapala Court is one of six purpose-built apartment blocks forming part of a wider estate known as The Boardwalk, located at Sovereign Harbour. Constructed between 2000 and 2018, Rapala Court comprises six occupied residential floors above a car park and contains a total of 37 flats. The units vary in layout, offering a mix of one, two, and three-bedroom apartments.

The building is of steel and concrete frame construction, with concrete floors and stairwells. A single central stair core provides access to all floors, with escape routes at both the car park level and an upper ground walkway.

Externally, the building is fitted with a rainscreen cladding system made up of composite plastic panels and insulated rendered panels. The property also benefits from a secure electronic entrance system and designated undercover parking for residents.”

3. The Applicant explains that:

“Although Redrow Homes (Southern) Limited is the freeholder of Rapala Court, it is not the applicant in this dispensation request, nor does it hold any repairing obligations in relation to the property.

The party with responsibility for the management and upkeep of the building, including all relevant repairing obligations — is The Boardwalk Management (Sovereign Harbour) Limited. This company acts as the Residential Management Company (RMC) and is contractually responsible for the maintenance and repair of the common parts and building services at Rapala Court, including the firefighting lift subject to this application.

Accordingly, this application for dispensation has been made by The Boardwalk Management (Sovereign Harbour) Limited, as it is the appropriate party responsible for arranging the works, communicating with leaseholders, and ensuring compliance with relevant legal and safety obligations.

The qualifying works relate to the replacement of the Automatic Transfer Switch (ATS) in the firefighting lift at Rapala Court, a high-rise residential block. The lift became inoperative on 28th April 2025, with residents briefly trapped inside. TLS, the incumbent lift contractor, attended within 20 minutes, released the residents, and confirmed the ATS had failed and needed full replacement.

TLS provided a quotation for the full replacement and certification of the ATS, totalling £9,042.67, which exceeds the Section 20 threshold (£5,030.18). The directors of The Boardwalk Management (Sovereign Harbour) Limited, in consultation with Anthem Management, reviewed the quotation and explored

alternative options to ensure that the cost and procurement route were proportionate and justifiable.

Initially, TLS advised that the lead time for the ATS unit would be up to two weeks. On that basis, the directors via Anthem Management gave a formal instruction for TLS to proceed with the works and to place the order for the part as a matter of urgency. However, TLS has since confirmed that the lead time may now extend to up to eight weeks, which has significantly affected the expected timeline for reinstating the lift.

It is important to note that the ATS component itself is extremely costly, and based on all information to date, the supply and installation of this part will exceed the Section 20 consultation threshold for Rapala Court. This alone triggers the need for dispensation, as the cost of the ATS is unavoidable and forms the core of the proposed works.

Regardless of whether TLS carries out the installation or an alternative route is taken, an order for the ATS must still be placed immediately, as this remains the key limiting factor. Delaying this procurement while continuing further consultation with leaseholders would risk prolonging the outage unnecessarily and is not viable given the building's safety obligations.

Due to the urgency of the situation and the limited time since the fault was reported, a full Section 20 consultation has not been carried out. The lift failure occurred on 28TH April 2025, and since then, time has been spent assessing the issue, obtaining quotations, and exploring viable procurement routes. The need to act quickly and decisively remains critical, particularly now that the expected lead time for the ATS unit is significantly longer than initially advised.

To ensure transparency, a Notice of Intention, along with a covering letter, will be issued to leaseholders.

In parallel, prior to the instruction issued to TLS, a comparison quote was sought from Bay Electrical; however, they confirmed that a separate lift contractor would still be needed to complete and certify the works, and therefore their quote was not directly comparable in scope. Other contractors were contacted, but confirmed that ATS components are not routinely stocked, and sourcing one would still carry lead time and risk.

Given the now-confirmed delay from TLS, we are also in the process of seeking input from a specialist lift consultancy to explore additional procurement options. However, the need to commit to ordering the ATS unit urgently remains unchanged, and waiting to conduct further formal consultation would place the residents and responsible persons in an increasingly vulnerable position from a regulatory and safety standpoint.”

4. Dispensation is sought because:

“This application is being made on the basis of urgency, safety, and regulatory necessity. Rapala Court is a high-rise building, and the lift in question is a designated firefighting lift, which is a key component of the building's life safety strategy. It has been out of service since 28th April 2025, and the longer it remains non-operational, the greater the risk to resident welfare, particularly those with mobility issues, and the greater the exposure to regulatory non-compliance.

Although TLS originally advised a two-week lead time, this has now extended to up to eight weeks. However, as previously stressed, the need to place an order for the ATS immediately remains unchanged. It is the most time-critical element of the project, and any delay in ordering it would further prolong the lift outage.

Sections 116 to 122 and Schedule 8 of the Building Safety Act 2022 are highly relevant to this application. Rapala Court is classed as a 'higher-risk building,' and the continued failure of a firefighting lift may be considered a breach of the duty to manage building safety risks. This could expose the responsible entity to enforcement action by the Building Safety Regulator, including the potential for a prohibition notice to be served, limiting occupation or use of the building.

The request for dispensation is therefore made to allow for immediate procurement and preparation of works, while ensuring health and safety obligations are met and leaseholders are kept informed throughout. Further delays caused by consultation would not only be disproportionate but could undermine building compliance and compromise resident safety."

5. The Applicant states that this application is urgent because:

".....due to the ongoing failure of the firefighting lift at Rapala Court, a high-rise residential building. The lift has been out of service since 28th April 2025. In addition to providing essential day-to-day access for residents, including those with mobility issues, the lift is a designated firefighting lift, which plays a critical role in the building's overall life safety strategy.

Under the Building Safety Act 2022, responsible persons are required to ensure that key safety systems remain operational. The continued unavailability of this lift significantly compromises emergency access for fire services and if the building is found to be non-compliant or presenting a serious risk to occupant safety, the Building Safety Regulator has powers to take enforcement action, including the issuance of a prohibition notice, which could restrict occupation or escalate legal liability for the accountable party.

Given these risks, reinstating the lift without delay is essential to protect residents, maintain safe egress routes, and ensure ongoing compliance with life safety regulations."

6. 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.
7. These reasons address the key issues raised by the parties. They do not recite each and every point referred to either in submissions or during any hearing. However, this does not imply that any points raised, or documents not specifically mentioned, were disregarded. If a point or document was referred to in the evidence or submissions that was relevant to a specific issue, then it was considered by the Tribunal. The Tribunal concentrates on those issues which, in its opinion, are fundamental to the case.

8.

Submissions

9. On 9th June 2025 the Tribunal received the Application from Anthem Management Limited.

10. On 18th June 2025 the Tribunal issued Directions requiring the Representative to send copies to all the Respondents.
11. On 20th June 2025 the Applicant's representative confirmed that the Directions and relevant documents had been sent to all the Leaseholders.
12. On 2nd July 2025 the Applicant's representative confirmed that no responses had been received from the Leaseholders.
13. The Tribunal was provided with a copy of the Lease for Flat 252 in the development.

The Law

Section 27A Liability to pay service charges: Jurisdiction

14. (1) An application may be made to a leasehold valuation tribunal for a determination whether a service charge is payable and, if it is, as to—
 15. (a) the person by whom it is payable,
 16. (b) the person to whom it is payable,
 17. (c) the amount which is payable,
 18. (d) the date at or by which it is payable, and
 19. (e) the manner in which it is payable.
20. (2) Subsection (1) applies whether or not any payment has been made.
21. (3) An application may also be made to a leasehold valuation tribunal for a determination whether, if costs were incurred for services, repairs, maintenance, improvements, insurance or management of any specified description, a service charge would be payable for the costs and, if it would, as to—
 22. (a) the person by whom it would be payable,
 23. (b) the person to whom it would be payable,
 24. (c) the amount which would be payable,
 25. (d) the date at or by which it would be payable, and
 26. (e) the manner in which it would be payable.

Section 20 Limitation of service charges: consultation requirements provides that where the lessor undertakes qualifying works with a cost of more than £250 per lease, 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 dispensed with by the Tribunal. An application for dispensation may be made retrospectively.

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”.

Determination

The Tribunal is satisfied that following the failure of the firefighting lift at Rapala Court and subsequent advice from the incumbent lift contractor it became essential to replace the Automatic Transfer Switch (“ATS”) as soon as possible to provide day-to-day access to residents, including those with mobility issues, and restore access for emergency services to protect residents’ safety.

The Tribunal determines that dispensation from the consultation requirements in Section 20 of the Act is granted.

This decision is confined to determination of the issue of dispensation from the consultation requirements. The Tribunal has made no determination on whether the costs are payable or reasonable. If a Lessee wishes to challenge the payability or reasonableness of those costs, then a separate application under section 27A of the Act would have to be made.

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 to the First-tier Tribunal at the Regional office which has been dealing with the case. Where possible you should send your application for permission to appeal by email to rpsouthern@justice.gov.uk as this will enable the First-tier Tribunal Regional office to deal with it more efficiently.
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.
4. The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking.