



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

Case Reference	:	HAV/43UF/LDC/2025/0688
Property	:	41-58 The Tracery, Park Road, Banstead, Surrey SM7 3DD.
Applicant	:	The Tracery RTM Company Limited
Representative	:	HES Estate Management Ltd
Respondents	:	The Leaseholders
Representative	:	None
Type of Application	:	For dispensation from the consultation requirements under Section 20ZA Landlord & Tenant Act 1985
Tribunal Members	:	Mr R Waterhouse BSc (Hons) LLM Property Law MA FRICS
Date and Venue	:	4 September 2025 – Determination on Papers First-tier Tribunal (South).

DECISION

This has been a remote paper determination, which has been consented to by the parties. A face-to-face hearing was not held because it was not practicable, and no one requested same.

The documents the Tribunal were referred to a number of documents.

Decision

- (1) The Tribunal determines that unconditional dispensation should be granted from the consultation requirements from Section 20ZA of the Landlord and Tenant Act 1985 (the Act) in respect of the property 41-58 The Tracery, Park Road, Banstead, Surrey SM7 3DD.**
- (2) We make no determination as to the reasonableness of the costs of same, these being matters which can be considered, if necessary, under the provisions of s27A and s19 of the Act.**

The Application

1. This Application dated 22 July 2025, is made by HES Estate Management Ltd on behalf of the Long Term Reversions (Harrogate) Ltd.
2. The Application seeks dispensation from the consultation requirements under Section 20ZA of the Landlord and Tenant Act 1985. The leaseholders were informed and copies sent to the leaseholders of the decision to apply for a S20 ZA on 22 July 2025.
3. The Application is concerned solely with the question of what consultation if any should be given of the consultation requirements of Section 20 of the 1985 for works addressing the replacement of the lift drive on the passenger lift which services the building, following failure. It is not concerned with the reasonableness or payability of any service charges which may arise.

The Determination

4. A written Application was made by Long Term Reversions (Harrogate) Ltd. The Tribunal considered a number of documents; the Application, a list of the leaseholders, a copy of the lease, a copy of the Directions dated 31 July 2025, and further Directions dated 29 August 2025.

Background

The property

5. The Property is described in the application as “three storey purpose built residential property encompassing 18 self-contained flats constructed of brick”.
6. The Application is made for “qualifying works”. The Form notes under “Grounds for seeking Dispensation”, stating “Replacement of the lift drive on the passenger lift which services the building, following failure”.
7. The Directions dated **31 July 2025**, provided for the Applicant to inform the leaseholders of the application by **6 August 2025**. Failure to do so will result in the application being struck out.
8. The Directions provided that the Application shall stand as the Applicants case.
9. The Respondent leaseholders by **12 August 2025**, if they oppose the application, shall complete a statement stating why they oppose the application evidence of what the leaseholder would have done differently if the applicant had complied with the full consultation process and copies of any documents relied upon,
10. The Applicant may make a brief reply to any respondent leaseholder who opposed by **15 August 2025**.
11. The applicant did not inform the tribunal by 6 August 2025 whether any leaseholders had objected and as a consequence the application was struck out.
12. The applicant subsequently, 21 August 2025, applied for the application to be reinstated. It was said that the leaseholders had been informed of the application and Directions as directed and there is a statement of truth in respect of that, which there is no reason not to rely upon, but that due to human error/oversight, the tribunal was not informed.
13. The case was reinstated, and the Directions of the 31 July 2025 continue to apply.
14. The only issue for the Tribunal is whether or not it is reasonable to dispense with the statutory consultation requirements of Section 20 of the 1985 Act. **This Application does not concern the issue of whether any service charge costs will be reasonable or payable.**

Documents

15. The Tribunal has had recourse to the documents noted above.
16. No expressions of opposition were received from the respondent leaseholders
17. The applicant submitted the Directions requiring the notification of the respondent leaseholders has been complied with, within the time noting 22 July 2025 as date of compliance.

The Tribunal's decision

18. The Tribunal grants dispensation under Section 20 ZA of the Landlord and Tenant Act 1985 and the Service Charges (Consultation) (England) 2003 for the works set out in the Application.
19. We are, aware of the judgment in Daejan Investments Limited v Benson and others [2013] UKSC 14. The Application for dispensation is not challenged.
20. The Supreme Court (Lord Neuberger at para 50) accepted that there must be real prejudice to the tenants. Indeed, the Respondents do not oppose the Application. It is accepted that we have the power to grant dispensation on such terms as we think fit. However, the Landlord is entitled to decide the identity of the contractors who carry out the work, when they are done, by whom and the amount. The safety net for the Respondents is to be found in Sections 19 and 27A of the Landlord and Tenant Act 1985.
21. Accordingly, we find that unconditional dispensation should be granted for; works addressing the replacement of the lift drive on the passenger lift which services the building, following failure.
22. Our decision is in respect of the dispensation from the provisions of s20 of the Act only. It is open to the opposing leaseholder or others to apply under the Landlord and Tenant Act 1985 Section 27A, should there be concerns over the payability and reasonableness of the service charge, these may include concerns over necessity, quality of work and its cost.
23. The tribunal also orders that a copy of this decision be provided within 7 days of its receipt to the leaseholders in the building.

Richard Waterhouse

Name: Richard Waterhouse
FRICS

9 September 2025

ANNEX – RIGHTS OF APPEAL

- 1. 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 at the Regional Office which has been dealing with the case.**
- 2. 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.**
- 3. If the Application is not made within the 28-day time limit, such Application must include a request to 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.**
- 4. The Application for permission to appeal must identify the decision of the Tribunal to which it relates (ie 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**