



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

**Case reference** : **CAM/38UB/LDC/2026/0008**

**Property** : **Merisham Court, School Lane, Banbury,  
Oxford, OX16 2AT**

**Applicants** : **1. McCarthy and Stone Management  
Services Limited  
2. McCarthy & Stone Retirement  
Lifestyles Limited**

**Respondents** : **All leaseholders of the Property**

**Type of application** : **For dispensation under section 20ZA of  
the Landlord and Tenant Act 1985**

**Tribunal member** : **Judge David Wyatt**

**Date of decision** : **22 April 2026**

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**DECISION**

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**Decision of the Tribunal**

The Tribunal determines to dispense with all the consultation requirements in relation to the works in 2023 to the lift for the reasons set out in this decision.

**Reasons**

**Introduction**

1. The First Applicant (described in this decision as the “Applicant”) is the managing agent acting for the landlord of the Property, the Second Applicant, and the Respondents are the leaseholders.
2. The Applicant sought an order pursuant to section 20ZA of the Landlord and Tenant Act 1985 (the “Act”) for dispensation with the consultation

requirements in respect of works to replace the electrical traction group and traction ropes (and related works described in the application form) in the communal lift at the Property.

3. The Tribunal gave directions on 13 March 2026 for the Applicant to send their application and the directions to the Respondents, and for any Respondents who oppose the application to make representations. The directions required the Applicant to prepare a bundle of documents for the tribunal to use when determining the application. The Tribunal has received a bundle totalling 74 pages. This included the application, a sample lease, a statement of case, correspondence sent to leaseholders and details of the work.
4. For the sake of completeness, I have added the landlord to these proceedings as Second Applicant, represented by the First Applicant.

### **The Work**

5. The Applicant said that during 2023, the sole communal lift at the Property experienced persistent and escalating failures. The Property is a purpose-built block of 30 retirement apartments for residents aged over 60, and the lift provides the only means of access to upper floors other than the stairs.
6. A technical investigation by Orona Ltd, the existing lift maintenance contractor, on 18 August 2023 identified that the gearbox was excessively tight and recommended replacement of the electrical traction group and traction ropes. Orona quoted £16,758.21 plus VAT (£20,109.85 including VAT) for these and related works. The cost of this work was above £250 per leaseholder, meaning that consultation with leaseholders was required (section 20 of the Act).
7. The Applicant stated that the works were urgent given the nature of the Property and the dependency of elderly and mobility-impaired residents on the lift for access to their homes. The decision was therefore taken by the Applicant to instruct Orona to proceed with the works without completing the statutory consultation process. The works were completed in November 2023.

### **Consultation**

8. The Applicant informed the Tribunal that although the statutory consultation process was not completed, steps were taken to keep leaseholders informed. A homeowner meeting was held on 30 September 2023 at which the scope of the works and estimated cost of approximately £20,000 were discussed. A further homeowner meeting took place on 26 October 2023. Minutes of both meetings were circulated to leaseholders. A homeowner meeting was held on 16 December 2025 to explain the application to the Tribunal, and a letter was sent to leaseholders on 18 December 2025 summarising the discussion and explaining the dispensation process.

### **Section 20ZA application**

9. By email dated 19 March 2026, the Applicant confirmed to the Tribunal that the application form and the Tribunal's directions had been

delivered to each leaseholder on 18 March 2026 by the House Manager at the development.

10. None of the Respondents have responded to object to the application.

### **Relevant law**

11. This is set out in the Appendix below. The only issue for the Tribunal is whether it is reasonable to dispense with the statutory consultation requirements. This application does not concern the issue of whether any service charge costs will be reasonable or payable.

### **Consideration**

12. By rule 31 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the parties are taken to have consented to proceeding without a hearing because the directions proposed to dispose of the proceedings without a hearing and no objection has been received. This meant that this application was determined solely on the documentary evidence filed by the Applicant. As stated earlier, no objections or other representations have been received from any of the Respondents.
13. The relevant test to be applied is set out in the Supreme Court decision in **Daejan Investments Ltd v Benson & Ors** [2013] UKSC 14 where it was held that the purpose of the consultation requirements imposed by section 20 of the Act was to ensure that tenants were protected from paying for inappropriate works or paying more than was appropriate. Generally, an objector would need to show the prejudice they had suffered which they would not have suffered if the consultation requirements had been complied with.
14. The Tribunal grants the application for the following reasons:
- (a) The Tribunal is satisfied that the nature of the work means that it had to be undertaken urgently by the Applicant. In particular, the Tribunal notes it is not disputed that the lift is the sole communal lift at the Property, that the Property is a retirement development whose residents include elderly and mobility-impaired persons, and that continued lift failure posed a serious risk to the welfare and accessibility of residents.
  - (b) The Tribunal is satisfied that if the Applicant had carried out the full statutory consultation, the resulting delay would have extended the period during which residents were without essential lift access.
  - (c) The Tribunal is satisfied that the Respondents have been kept informed of the need for, scope of, and cost of the works, through homeowner meetings held in September and October 2023 and December 2025, and through correspondence.
  - (d) The Tribunal is satisfied that the Respondents have been provided with the application and the evidence in support and there has been no objection from any of them, or any dispute about any of the information provided by the Applicant.

- (e) As noted in Daejan, the Respondents still have the protection of section 19 of the Act; granting dispensation does not prevent them from challenging the reasonableness/payability of the actual costs incurred by making a separate service charge application under section 27A of the Act.
- 15. The Tribunal is satisfied that it is reasonable to dispense with all the statutory consultation requirements in relation to the relevant works.
- 16. No application was made under section 20C of the Act.

**Judge David Wyatt**

**22 April 2026**

### **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).

## **Appendix of relevant legislation**

### **Landlord and Tenant Act 1985 (as amended)**

#### **Section 20**

- (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) the appropriate 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 or under the agreement.
- (3) This section applies to qualifying works if relevant costs incurred on carrying out the works exceed an appropriate amount.
- (4) The Secretary of State may by regulations provide that this section applies to a qualifying long term agreement—
  - (a) if relevant costs incurred under the agreement exceed an appropriate amount, or
  - (b) if relevant costs incurred under the agreement during a period prescribed by the regulations exceed an appropriate amount.
- (5) An appropriate amount is an amount set by regulations made by the Secretary of State; and the regulations may make provision for either or both of the following to be an appropriate amount—
  - (a) an amount prescribed by, or determined in accordance with, the regulations, and
  - (b) an amount which results in the relevant contribution of any one or more tenants being an amount prescribed by, or determined in accordance with, the regulations.
- (6) Where an appropriate amount is set by virtue of paragraph (a) of subsection (5), the amount of the relevant costs incurred on carrying out the works or under the agreement which may be taken into account in determining the relevant contributions of tenants is limited to the appropriate amount.
- (7) Where an appropriate amount is set by virtue of paragraph (b) of that subsection, the amount of the relevant contribution of the tenant, or each of the tenants, whose relevant contribution would otherwise exceed the amount prescribed by, or determined in accordance with, the regulations is limited to the amount so prescribed or determined.

**Section 20ZA**

- (1) Where an application is made to the appropriate 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.