



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

Case Reference	:	CAM/00KF/LDC/2026/0018
HMCTS code (paper, video, audio)	:	P: PAPERREMOTE
Property	:	Cluny House, Cluny Square, Southend-on-Sea, Essex, SS2 4AF
Applicant	:	Southend-on-Sea City Council
Representative	:	South Essex Homes Limited
Respondents	:	The leaseholders of Flats 33, 47, 49, 51, 53, 59 and 79 at the Property
Type of application	:	For dispensation from consultation requirements - Section 20ZA of the Landlord and Tenant Act 1985
Tribunal member	:	Judge C. Morgan
Date of decision	:	3 July 2026

DECISION

The tribunal's decision

- 1. Southend-on-Sea City Council are substituted as the Applicant.**
- 2. The tribunal determines under section 20ZA of the Landlord and Tenant Act 1985 to dispense with all the consultation requirements in relation to the works described in the application form, namely works of stripping out the existing lifts at the Property and replacing them with new lifts.**

The application

1. South Essex Homes Limited applied for dispensation from the statutory consultation requirements in respect of qualifying works namely stripping out the existing lifts at the Property and replacing them with new lifts. The cost of the works are said to be £85,275.92 (inclusive of VAT). They were recorded as the Applicant by the Legal Officer who drafted the directions. Although they described themselves as the Applicant, they are of course acting as agent for the landlord, Southend-on-Sea City Council and I have therefore substituted the landlord as the applicant in accordance with rule 10 of the Tribunal Procedure Rules 2013.
2. The relevant contributions of the Respondents through the service charge towards the costs of these works would potentially be limited to a fixed sum unless the statutory consultation requirements, prescribed by section 20 of the Landlord and Tenant Act 1985 (the “**1985 Act**”) and the Service Charges (Consultation etc) (England) Regulations 2003:
 - (i) were complied with; or
 - (ii) are dispensed with by the tribunal.
3. The Applicant seeks a determination from the tribunal, under section 20ZA of the 1985 Act, to dispense with the consultation requirements. The tribunal has jurisdiction to grant such dispensation if satisfied that it is reasonable to do so.
4. In this application, the only issue for the tribunal is whether it is satisfied that it is reasonable to dispense with the consultation requirements. **This application does not concern the issue of whether any service charge costs of the relevant works will be reasonable or payable, or what proportion is payable.**

The property, parties and the leases

5. The property is described in the application form as a low rise block of 30 flats on 4 floors where lifts are provided in addition to stairs. The property was built in 1954; the ground floor consists of retail premises.
6. The Applicant is the Landlord of the property. The Applicant's Representative is the Applicant's arm's length management organisation responsible for managing the Applicant's housing stock. The Respondents are the leaseholders of the flats in the property.
7. The bundle contained a copy of the specimen lease for Flat 33.

8. In the Lease for Flat 33:

- (i) The term of the Lease is 125 years from 16 May 1988.
- (ii) Clause 3(A) sets out the Tenant's covenant to: *"pay to the Lessor such annual sum as may be notified to the Lessee by the Lessor from time to time as representing the due proportion of the reasonably estimated amount required to cover the costs and expenses incurred or to be incurred by the Lessor in carrying out the obligations or functions contained or referred to in this Clause and Clause 4 and 6 hereof and in the covenants set out in the Ninth Schedule hereto (such costs and expenses being hereinafter called "the Management Charges") such estimated amount to be paid annually in advance on the days for payment of rent hereunder . . ."*
- (iii) Clause 3(B) sets out the Tenant's covenant to *"pay to the Lessor or demand the amount by which the estimated sum paid by the Lessee to the Lessor under sub-clause (A) of this Clause in respect of the Management Charges is less than the due proportion of the total moneys properly and reasonably expended or retained by the Lessor such due proportion being 4.36 per centum of the total sum expended or retained by the Lessor as aforesaid . . ."*
- (iv) Clause 3(C) sets out that *"If the amount by which the estimated Management Charges paid by the Lessee to the Lessor under Sub-clause (A) of this clause is more than the due proportion of the total moneys properly and reasonably expended or retained by the Lessor as above the excess shall be carried forward by the Lessor to be credited to the account of the Lessee."*
- (v) Clause 4 sets out the Landlord's covenant *"(at the expense of the Lessee as herein provided and subject to the payment by the Lessee of the Management Charges) will perform and observe and carry out or cause to be carried out the covenants and obligations set out in the Ninth Schedule. . ."*
- (vi) The Ninth Schedule sets out the Landlord's obligations. These include: *"1. To keep in good and*

substantial repair and condition (and wherever necessary rebuild reinstate and renew and replace all worn or damaged parts) (i) . . . all electrical and other fittings and windows in the Estate. . . (iv) all such parts of the Reserved Property not hereinbefore mentioned and all fixtures and fittings therein and additions thereto. . . .5. To manage the Property for the purpose of keeping the Property in a Condition similar to its present state and condition”;

(vii) Reserved Property is defined as “*the property described in the Third Schedule hereto*”.

(viii) The Third Schedule defines the Reserved Property as: “*FIRST ALL THOSE the areas forecourts courtyards fences walls and the halls staircases lifts (if any) landings steps passages and other parts of the Property which are used in common by the owner or occupiers of any of the Flats forming part of the property . . .*”

9. As “*lifts*” form part of the Reserved Property, the works of stripping out the existing lifts at the Property and replacing them with new lifts fall within the list of services contained in paragraph 1(iv) of the Ninth Schedule “*all such parts of the Reserved Property not hereinbefore mentioned and all fixtures and fittings therein and additions thereto*”.

Procedural history

10. On 1 May 2026, the tribunal gave case management directions. The directions included a reply form for any Respondent leaseholder who objected to the application to return to the tribunal and the Applicant by 22 May 2026, indicating whether they wished to have an oral hearing. The tribunal also directed that the Applicant send each of the Respondents the application form, the tribunal’s directions, a clear, concise description of the relevant works, an estimate of the cost of the relevant works and any other evidence relied upon by 8 May 2026 and to confirm to the tribunal that this has been done and the date(s) on which this was done. The bundle contains a witness statement from Katy Baker dated 29 May 2026 confirming to the tribunal that the Applicant had complied with this direction on 7 May 2026.
11. The directions provided that this matter would be determined on or after 12 June 2026 based on the documents, without a hearing, unless any party requested one.

12. No leaseholder has responded and no party has requested an oral hearing. Accordingly, this determination is based on the documents produced by the Applicant in their bundle. On reviewing these documents, I considered that an inspection of the Property was neither necessary nor proportionate to the issues to be determined and that a hearing was not necessary.

The Applicant's case

13. The Applicant stated in the application form contained in the bundle that the Applicant carried out consultation by serving Stage 1 and Stage 2 section 20 consultation notices. However, only one contractor submitted a tender for the proposed works and following a value-for-money assessment, the Applicant decided to appoint that contractor. As only one contractor tendered for the works, the Applicant was unable to provide leaseholders with alternative estimates and therefore considers that the consultation process may be defective.
14. The Applicant sets out in the application form contained in the bundle that the existing lifts are obsolete and that it is vital that efficient working lifts are provided for residents.
15. The Applicant includes within the bundle a report on acceptance of tender dated 6 August 2025, this sets out that:
 - (i) only one tender was returned by the required date and time. There were 4 expressions of interest.
 - (ii) The tender returned was from Precision Lift Services in the sum of £85,275.92.
 - (iii) The rates in the Precision Lift Services tender have been checked and are considered to be good value for money.
 - (iv) The estimate of cost on this contract was £75,000.00, therefore Precision Lift Services tender is approximately 10% above the estimated cost; this is still competitive and offers good value for money.
 - (v) The market has been sourced to find suitable companies to provide a competitive price, and only one tender was received back.
16. The Applicant includes within the bundle a witness statement from Lloyd Williams dated 13 February 2026, this sets out that:

- (i) The Applicant's Representative needed to restore the efficient operation of lifts at the Property, they took the view that the best way to achieve this would be by entering into a contract to modernise the lift motor room equipment alongside essential minor structural repairs to the shaft of the lift.
 - (ii) The Applicant's Representative sent the section 20 notice of intention to the leaseholders on 20 September 2024.
 - (iii) No nominations of contractors were received by the Applicant's Representative.
 - (iv) The Applicant's Representative sent the second section 20 notice on 14 August 2025. This notice advised that only one contractor, Precision Lift Services, submitted a formal tender by the deadline.
 - (v) The Applicant's Representative entered into an agreement with Precision Lift Services to complete the works.
 - (vi) None of the leaseholders have complained that the lift renewal work undertaken was either inappropriate or unreasonably costly, nor that it was wrong to rely upon just one successful tender.
17. The bundle contains a copy of the section 20 notices served by the Applicant's Representative on behalf of the Applicant on 20 September 2024 and 14 August 2025.

The Respondents' position

18. As noted above, the directions provided for any Respondent who wished to oppose the application for dispensation to complete the reply form attached to the directions and send it to the tribunal and the Applicant. The tribunal has not received any response or statement of case opposing the application, or comments on the Applicant's statements in the application form. The tribunal has not received any allegations of prejudice. In the circumstances, the tribunal concluded that the application was unopposed.

The Law

19. Section 20ZA(1) of the 1985 Act provides as follows: "*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.”

20. In the leading case of *Daejan Investments Ltd v Benson and others* [2013] UKSC 14 [2013] 1 WLR 854 the Supreme Court set out certain principles relevant to section 20ZA. Lord Neuberger stated at [44] that: “*it seems to me that the issue on which the [tribunal] should focus when entertaining an application by a landlord under section 20ZA(1) must be the extent, if any, to which the tenants were prejudiced in either respect by the failure of the landlord to comply with the requirements*”.

The tribunal’s decision

21. In the circumstances, based on the information provided by the Applicant (as summarised above), there is no evidence before the tribunal that the Respondents were prejudiced by the failure of the Applicant to comply with the consultation requirements and I am satisfied that it is reasonable to dispense with the statutory consultation requirements in relation to the relevant works.
22. **As noted above, this decision does not determine whether the cost of these works are reasonable or payable under the leases, or what proportion is payable under the lease(s), only whether the consultation requirements should be dispensed with in respect of them.**
23. There was no application to the tribunal for an order under section 20C of the 1985 Act (limiting the ability of the landlord to seek their costs of the application as part of the service charge).

Name: Judge C. Morgan

Date: 3 July 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).