



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

Case reference	:	HAV/21UC/LDC/2026/0130
Property	:	16-27 Havana Court, Sovereign Harbour, Eastbourne, BN23 5UH
Applicant	:	Port Regent Property Management Limited
Representative	:	Wishtower Limited
Respondent	:	The Leaseholds of 16-27 Havana Court, Sovereign Harbour, Eastbourne, BN23 5UH
Representative	:	None
Type of application	:	To dispense with the requirements to consult lessees about major works section 20ZA of the Landlord and Tenant Act 1985.
Tribunal members	:	R Waterhouse FRICS
Venue	:	10 Alfred Place, London, WC1E 7LR
Date of decision	:	1 September 2026

DECISION

Summary of the Decision

1. The Applicant is granted dispensation under Section 20ZA of the Landlord and Tenant Act 1985 from the consultation requirements imposed on the landlord by Section 20 of the 1985 Act in respect of major works, being addressing urgent repairs to the passenger lift serving the 12 flats at 16-27 Havana Court.

The application and the history of the case

2. The Application was determined on the papers without a hearing. A hearing was not requested by any party and the Tribunal considered papers that a hearing would be disproportionate.

3. The Applicant applied by an application received 14 July 2026 for dispensation under Section 20ZA of the Landlord and Tenant Act 1985 (“the Act”) from the consultation requirements imposed by Section 20 of the Act in respect of urgent repairs to the passenger lift serving the 12 flats at 16-27 Havana Court.

4. The Applicant says the lift cannot safely carry its standard load of up to 6 people currently without persistently breaking down due to a current hydraulic fault and defective valve seats which require urgent replacement. It is proposed that the works to repair this fault will be instructed immediately following submission of this application. There are sufficient funds held to meet the cost of the works in full with no requirement for additional one-off demands of service charge being issued to leaseholders.

5. The Applicant says a copy of this application will be issued to all leaseholders with an explanation of the current faults and rationale behind the application to dispense with the section 20 consultation requirements in order to safeguard residents within the building.

6. The fault has been assessed by the current lift maintenance contractor who has confirmed that “due to the internal hydraulic components failing severely, this will cause the lift to stop out of level creating a dangerous health and safety issue and likely passenger entrapment.” The freehold company have a duty of care to leaseholders/residents to maintain a working lift in safe and usable condition. Furthermore, there are a number of elderly residents who would become housebound without a working passenger lift for safe entry/egress to the building and their homes.

7. The Tribunal has been provided with; the application form dated 14 July 2026, the Directions dated 27 July 2026, a copy of a specimen lease that of plot 65 Port Regent, quotation from “Emerald” dated 1 June 2026, a further quotation from “Emerald” dated 6 June 2026 and a list of respondents.

The Law

8. Section 20 of the Landlord and Tenant Act 1985 (“the Act”) and the related Regulations provide 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 has been dispensed with by the Tribunal. An application may be made retrospectively.

9. 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”.

10. The appropriate approach to be taken by the Tribunal in the exercise of its discretion was considered by the Supreme Court in the case of Daejan Investment Limited v Benson et al [2013] UKSC 14.

11. The leading judgment of Lord Neuberger explained that a tribunal should focus on the question of whether the lessee will be or had been prejudiced in either paying where that was not appropriate or in paying more than appropriate because the failure of the lessor to comply with the regulations. The requirements were held to give practical effect to those two objectives and were “a means to an end, not an end in themselves”.

12. The factual burden of demonstrating prejudice falls on the lessee. The lessee must identify what would have been said if able to engage in a consultation process. If the lessee advances a credible case for having been prejudiced, the lessor must rebut it. The Tribunal should be sympathetic to the lessee(s).

13. Where the extent, quality and cost of the works were in no way affected by the lessor’s failure to comply, Lord Neuberger said as follows: “I find it hard to see why the dispensation should not be granted (at least in the absence of some very good reason): in such a case the tenants would be in precisely the position that the legislation intended them to be- i.e. as if the requirements had been complied with.”

14. The “main, indeed normally, the sole question”, as described by Lord Neuberger, for the Tribunal to determine is therefore whether, or not, the lessee will be or has been caused relevant prejudice by a failure of the Applicant to undertake the consultation prior to the major works and so whether dispensation in respect of that should be granted.

15. The question is one of the reasonableness of dispensing with the process of consultation provided for in the Act, not one of the reasonableness of the charges of works arising or which have arisen.

16. If dispensation is granted, that may be on terms. That is to say that dispensation is granted but only if the landlord accepts- and fulfils appropriate conditions. Specific reference was made to costs incurred by the lessees, including legal advice about the application made.

17. There have been subsequent decisions of the higher courts and tribunals of assistance in the application of the decision in Daejan but none are relied upon or therefore require specific mention in this Decision.

18. More generally, the Tribunal considers that the case authorities demonstrate that the Tribunal has a very wide discretion to, if it considers it appropriate, impose whatever terms and conditions are required to meet the justice of the particular case- in Daejan it was said, “on such terms as it thinks fit- provided, of course, that any such terms are appropriate in their nature and their effect”.

Submissions and Consideration

19. The Application included two quotations from Emerald for the rectification of the issue.

20. The Directions dated 27 July 2026 were issued.

21. The Directions require at paragraph 16, that “immediately on receipt of these Directions the Applicant shall send them including the Statement of Rules and Procedures and Guidance on pdf bundles together with a copy of the Application (if not already sent) to each Respondent and shall by 29 July 2026 confirm to the Tribunal that this has been done.”

22. The Directions requested at paragraph 20, that if no objections to the application from the Respondents are received, the Applicant must confirm this to the Tribunal by 6 August 2026.

The Lease

23. A copy of a sample lease is provided.

Analysis and decision

24. In the absence of any objection, the Tribunal finds that it is reasonable to dispense with all of the formal consultation requirements in respect of the major works to the building in respect to the works detailed in the application and set out in paragraph 1 of the decision.

25. The Directions also provided for the Applicant to confirm by 29th July 2026 that the applications had been sent to the Respondents. No such confirmation has been received, however, by email dated 12 August 2026, Melissa Kirby stated; “we refer to the above applications and confirm that no objection have been received to the dispensation”.

26. The Tribunal has not received any objections either. Whilst no confirmation of service has been provided, the Tribunal infers from the email of 12 August 2026, that it had been served on each Respondent.

27. Given the lack of objection, and the grounds of the applications, I consider that it would not prejudice the Respondents for dispensation to be given.

28. My one hesitation is in relation to service of the application and so full dispensation will be given subject to evidence being provided of service of both applications on the respective Respondents.

29. This decision is confined to determination of the issue of dispensation from the consultation requirements in respect of the major works outlined above.

30. The Tribunal has made no determination on whether the costs incurred are reasonable and whether service charges are payable in any given sum or at all. If a Lessee wishes to challenge the

reasonableness of those costs and/ or the payable service charges, then a separate application under section 27A of the Landlord and Tenant Act 1985 would have to be made.

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).