



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

Case Reference : HAV/21UC/LDC/2025/0775

Property : Merope House & Vega House, Macquarie Quay, Eastbourne, East Sussex, BN23 5AT

Applicant : Victoria Quay Management Company Limited

Representative : Wishtower Limited

Respondent : The leaseholders

Representative : -----

Type of Application : To dispense with the requirement to consult lessees about major works section 20ZA of the Landlord and Tenant Act 1985

Tribunal Member : Judge P Pattni-Evans

Date of Decision : 7 August 2026

DECISION

Summary of the Decision

- (A) 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 relation to the refurbishment of passenger lifts.**
- (B) The Tribunal has made no determination on whether the costs of the works are reasonable or payable.**
- (C) Pursuant to section 20C of the Landlord and Tenant Act 1985, the Tribunal directs that none of the costs incurred by the Applicant in connection with these proceedings may be regarded as relevant costs to be taken into account in determining the amount of any service charge payable.**
- (D) Pursuant to paragraph 5A of Schedule 11 to the Commonhold and Leasehold Reform Act 2002, the Tribunal directs that the Applicant may not recover through an administration charge any costs incurred, or to be incurred, in connection with these proceedings.**

The Tribunal gives reasons for the decision below.

Application

Scope of the Works

1. The Applicant seeks dispensation under section 20ZA of the Landlord and Tenant Act 1985 from the statutory consultation requirements in relation to the refurbishment of passenger lifts at Merope House and Vega House, Macquarie Quay, Eastbourne.

2. The works were completed in March 2025. The Applicant states that the works have been completed and paid for in full, that the contractor produced the lowest tender for the estate's lift refurbishment programme, and that the works were undertaken urgently to maintain lift services and ensure the safety and habitability of the buildings.

Case Management

3. In a previous case management decision dated 17 July 2026, the Tribunal recorded the various objections and responses to this application. Subsequently, corrections were provided, but some remaining objectors remain and their views are considered more fully below. For present purposes, it suffices to note that all parties were content for the matter to be determined on the papers. The Tribunal is satisfied that it has sufficient material before it to determine the matter without a hearing.
4. There is also an application on behalf of the leaseholders for orders preventing the Applicant from recovering the costs of these proceedings, whether through the service charge or by way of an administration charge. The Tribunal has received the Applicant's objections and considered those as part of this decision-making exercise.

The Law

5. 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.
6. 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”.

7. 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.
8. 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, either by paying where that was not appropriate or by paying more than appropriate because of the lessor’s failure 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”.
9. 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).
10. 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.”
11. 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, if so, whether dispensation in respect of that should be granted.

12. 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 for works arising or which have arisen. If dispensation is granted, it may be granted on terms.

Decision

13. The Tribunal has focused only on the issues requiring determination. In preparing these reasons, the Tribunal has had regard to the Senior President of Tribunals' Practice Direction, Reasons for Decisions, dated 4 June 2024.
14. The Macquarie Quay is an estate forming part of the Sovereign Harbour in Eastbourne. The estate comprises 137 residential flats across 12 purpose-built blocks as well as 38 freehold houses. The properties were constructed around 2001 / 2002. The application relates specifically to the refurbishment of two passenger lifts within blocks known as Merope House. The qualifying works relate to the passenger lifts. A section 20 consultation was started by a previous managing agent in 2024, but they failed to issue the Statement of Estimates and thereby, did not complete the consultation process properly.
15. Most of the leaseholders did not object to the application but a few did and they were broadly consistent with the issues they raised which centred on three main contentions. Given the substantial volume of correspondence generated by this application, it is not practicable to comment on each and every point in detail, all the more so as the legal question for the Tribunal is a very narrow one. Therefore, the absence of reference to a particular document or submission should not be taken to indicate that it has not been considered.
16. The first contention is that the lift refurbishment works were planned for several years (or at least for some time) and were not an emergency, this would suggest that there was sufficient time to comply with the statutory Section 20 consultation process. Several respondents point to AGM minutes, board minutes, and a Notice of Intention issued in April 2024 as evidence that the Applicant knew the lifts required refurbishment well in advance and had

already begun a formal consultation process before later proceeding without completing it. This does not appear to be contested by the Applicant.

17. The second concern related to inaccuracies in the original application, particularly around the chronology of when works were done. This too did not appear to be contested by the Applicant remedied those points in a later reply.
18. The third and perhaps most significant concern was based on a lost opportunity. The leaseholders had argued that had proper consultation occurred, they could have challenged costs. This, it is said, caused significant financial prejudice through unnecessary expenditure and lost opportunities to reduce costs.
19. In response to concerns about costs and procurement the Applicant effectively argues the leaseholder's objections were largely speculative they have not produced evidence showing that a different scope of works would have been adopted, independent reports could have led to a different outcome, although all that cheaper contractors were actually available. The Applicant says that the contractor appointed produced the lowest tender and had already acted as a maintenance contractor for lifts across the estate.
20. Whilst these observations summarise the leaseholder's concerns in the broadest terms that is not to minimise their importance but the issue under a section 20 dispensation application is a very narrow one. As the case law demonstrates it falls to the leaseholders to demonstrate and show evidence that they suffered relevant prejudice. The Tribunal agrees with the Applicant's assessment; the most significant aspect of this case is that the leaseholder's opposition insofar as it was maintained and as it developed over time was not based on actual evidence but rather on speculation of a lost opportunity. That does not mean to say that they are not without remedy because any challenge to the reasonableness of service charge costs can still be brought separately. However, that is not, of itself, a reason to refuse dispensation.
21. **Accordingly, the Tribunal grants dispensation pursuant to Section 20ZA of the Act, for major works required in maintaining the lifts.**

22. **For completeness, in making this determination, the Tribunal makes no findings as to the liability to pay or the reasonableness of the costs of the works. This is because this application is not about the proposed costs of the works, whether they are recoverable from the leaseholders as service charges, or the possible application or effect of the Building Safety Act 2022.**
23. **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.**

Costs

24. The Applicant accepted that the works were not urgent, that they formed part of a long-planned programme of maintenance, and that they were undertaken as part of a wider asset management strategy. The Tribunal does not criticise the Applicant for carrying out the works. However, the manner in which this matter unfolded undoubtedly caused confusion and concern amongst leaseholders. The objections raised do not suggest that the works were unnecessary; rather, they identify a lost opportunity for leaseholders to be properly informed and to ask questions about the proposed works and their associated costs.
25. In these circumstances, the Tribunal considers it would be unfair for leaseholders to bear the costs incurred by the Applicant in connection with these proceedings. The issues giving rise to the application arose from the Applicant's incomplete consultation, and it is reasonable that the costs consequences should fall on the Applicant rather than be passed on to leaseholders through the service charge or by way of administration charges.
26. The Tribunal considers that it is appropriate and proportionate that the costs incurred by the Applicant in making this application for dispensation should not be recoverable through the service charge (see paragraph 68 of *Daejan*)

27. Accordingly, pursuant to section 20C of the Landlord and Tenant Act 1985, the Tribunal directs that none of the costs incurred by the Applicant in connection with these proceedings may be regarded as relevant costs in determining the amount of any service charge payable by the leaseholders.
28. Further, pursuant to paragraph 5A of Schedule 11 to the Commonhold and Leasehold Reform Act 2002, the Tribunal directs that the Applicant may not recover, through an administration charge, any costs incurred, or to be incurred, in connection with these proceedings.

RIGHTS OF APPEAL

A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making a written application by email to rpsouthern@justice.gov.uk

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.

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.