



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

Case reference : **LON/00AN/LDC/2018/0388**

Property : **Flats 1 – 60 Rockley Court. Rockley Road London W14 0DB**

Applicant : **Rockley Court Management Limited**

Representative : **Alliance (Managing Agents)**

Respondent leaseholders : **Various leaseholders as per the application**

Representative : **-**

Type of application : **To dispense with the consultation requirements under S.20 Landlord and Tenant Act 1985**

Tribunal member(s) : **Mrs E Flint FRICS
Mr T Sennett MA FCIEH**

Date and venue of determination : **28 November 2018
10 Alfred Place London WC1E 7LR**

DECISION

Decision of the tribunal

- (1) The Tribunal grants dispensation from all of the consultation requirements under S.20 of the Landlord and Tenant Act 1985 in relation to the reconstruction of the passenger lift.

The Background

1. The application under section 20ZA of the Landlord and Tenant Act 1985 ("the Act") was made by Rockley Court Management Ltd on 18 October 2018.
2. The application relates to the installation of a new passenger lift which is said to have been breaking down on a regular basis.
3. Directions were issued on 1 November 2018 requiring the applicant to prepare bundles by 23 November 2018 to include statements
 - (i) Setting out the full grounds for the application, including all of the documents on which the landlord relies, a copy of the lease and copies of any replies from the tenants.
 - (ii) The Leaseholders were asked to confirm by 16 November 2018 whether or not they would give their consent to the application.
 - (iii) In the event that such agreement was not forthcoming the leaseholders were to state why they opposed the application; and provide copies of all documents to be relied upon.
4. No responses were received from any of the leaseholders.
5. The lessees were informed in the Directions issued by the Tribunal that the question of reasonableness of the works or cost was not included in this application, the sole purpose of which is to seek dispensation.

The Evidence

6. Rockley Court is a 6 storey, including basement, residential block comprising 50 original flats and 10 additional apartments added within the last 10 years. The block is served by one lift which serves the ground and upper floors only.
7. A s20 Notice of Intention to carry out works was issued on 20 September 2018 to confirm the need to carry out works to the lift. It

was proposed to discuss the works with all the lessees at the AGM which had been arranged for 1 November 2018.

8. The lift was inspected on 24 September by J Bashford and Associates LLP who issued a report on 8 October recommending the works required to increase the operational life of the lift.
9. The lift was installed in the mid 1960's and subject to partial modernisation in 2008. The lift is at least 50 years old, the average life expectancy of a lift of this type is 25 years following which it would usually be subjected to comprehensive modernisation or completely replaced. The partial modernisation which was carried out has extended the operational life of the lift.
10. The lift is in poor condition, does not comply with current British Standards or DDA recommendations. In the opinion of the engineer the lift has reached the end of its operational life and requires reconstruction to ensure a further 15 – 20 years of operational life. It was noted that the frequency of breakdown had been increasing.
11. The applicant confirmed that a copy of the Application had been sent to each lessee and that a copy had been displayed in the common parts.

The reasons for the tribunal's decision

12. The Managing agents have confirmed that no Lessees have responded to or opposed the application.
13. The relevant test to be applied in an application for dispensation was set out by the Supreme Court in *Daejan Investments Ltd v Benson & Ors* [2013] UKSC 14 where it was held that the purpose of the section 20 consultation procedure was to protect tenants from paying for inappropriate works or paying an inappropriate amount. Dispensation should not result in prejudice to the tenant.
14. The Tribunal determines from the evidence before it that the works were necessary, were required to be completed as soon as possible and that no prejudice to the lessees has been demonstrated or asserted.
15. On the evidence before it, and in these circumstances, the Tribunal considers that the application for dispensation be granted.

Name: Evelyn Flint

Date: 28 November 2018

ANNEX - RIGHTS OF APPEAL

- i. 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.
- ii. 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.
- iii. 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.
- iv. 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.