



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

Case Reference: LON/00BK/LDC/2020/0252 P

HMCTS code: P: PAPERREMOTE

Property: The Hall, 23a Grove End Road London
NW8 9BN

Applicant: L J Holdings

Representative : Alexander Reece Thomson LLP

Respondents: The lessees listed in the schedule to the
application

Representative: None advised

**Type of
Application:** To dispense with the statutory
consultation requirements under
section 20ZA Landlord and Tenant Act
1985

**Tribunal
members:** Judge Pittaway
Mr K Ridgeway MRICS

Date of decision: 23 February 2021

Covid-19 pandemic: description of hearing

This has been a remote hearing on the papers which has been consented to by the applicant and not objected to by any respondent. The form of remote hearing was P:PAPERREMOTE. A face-to-face hearing was not held because no-one requested a hearing and all issues could be determined on paper. The documents to which the tribunal was referred are in an electronic bundles of 209 pages (including the application, the Directions issued by the tribunal dated 22 December 2020, copy leases, the quotation from DAB Lift and Electrical Services Limited dated 20 July 2020, updated by e mail on 20 November 2020, the quotation from Morris Vermaport Lifts dated 4 December 2020 and from Griffin Elevators Limited dated 26 November 2020). The decision made is set out below.

DECISION

The Tribunal grants to L J Holdings dispensation from statutory consultation in respect of the subject works, namely remedial work to a communal lift serving the property.

The applicant should send a copy of this decision by e mail, hand delivery or first class post to each of the respondents and display a copy in a prominent position in the common parts of the Property, together with an explanation of the leaseholders' appeal rights within seven days of receipt.

This decision does not affect the Tribunal's jurisdiction upon any future application to make a determination under section 27A of the Act in respect of the reasonableness and/or the cost of the work.

The Application

1. The Applicant seeks a determination pursuant to section 20ZA of the Landlord and Tenant Act 1985 ("the **Act**") for dispensation from consultation in respect of proposed remedial work to a communal lift serving the property. The Service Charges (Consultation Requirements) Regulations 2003 provide that consultation requirements are triggered if the landlord plans to carry out qualifying works which would result in the contribution of any tenant being more than £250. The application stated the estimated cost of the work to be £5,600 plus VAT, and that the applicant proposed to commence the works as soon as it had made the application. It stated that the works were urgent as the lift was out of operation, and is essential to the residents on the upper floors.
2. By directions dated 22 December 2020 (the "**directions**") the tribunal directed the applicant send each of the leaseholders the application and the tribunal's directions and display the same in the common parts of the Property, confirming to the tribunal that it had done so. The applicant's representative confirmed to the tribunal on 19 January 2021 that on 13 January 2021 it had sent a copy of the

application and directions to each leaseholder and that it had clearly displayed these in the communal areas of the building .

3. The directions required any leaseholder who opposed the application should tell the tribunal. If they opposed the application they should send the tribunal and the applicant's representative a statement responding to the application together with any documents they wished to rely on. The tribunal has received no objections or statements of objection and the applicant has not informed the tribunal of having received any objections from any of the leaseholders.
4. The directions provided that the tribunal would decide the matter on the basis of written submissions unless any party requested a hearing. No such request has been made.

The applicant's case

5. In the application the property is described as a purpose built block of 12 flats.
6. The applicant states in its application that the qualifying works consist of replacing the lift's OSG (overspeed governor) system. This is subject to repetitive faults and the engineer can no longer reset the system. A number of contractors, having visited the site, have confirmed that the lift has to be left out of service as it might otherwise trip, trapping the occupants. The lift is maintained by DAB, who quoted £5,600 plus VAT for the work, including replacing the OSG system, rope, tension weight assembly and all fixings and wiring modifications. The application states that two other quotes were obtained, from MV (£5,485 + Vat) and Griffin Elevators (£1,980 + VAT). These are copied in the bundle. The applicant stated that it elected to proceed with DAB as they have the benefit of DAB software and the supporting computer program tools and the applicant considered them best placed to carry out the work.
7. The application states that the applicant had written to the residents explaining why the work was required, and informing them of the chosen contractor, why they were chosen and the urgency of the work and why they were therefore seeking dispensation from s 20 consultation.

The Respondents' case

8. The tribunal received no objections to the application nor any statements from any of the respondents. The tribunal was not advised of any objection to the application having been received by the applicant from any respondent.

Determination and Reasons

9. Section 20ZA(1) of the Act provides:

“Where an application is made to a leasehold valuation 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.”

10. The whole purpose of section 20ZA is to permit a landlord to dispense with the consultation requirements of section 20 of the Act if the tribunal is satisfied that it is reasonable for them to be dispensed with.
11. The Tribunal has taken account the decision in *Daejan Investments Ltd v Benson and others* [2013] UKSC 14 in reaching its decision.
12. There is no evidence before the tribunal that the respondents will be prejudiced by the failure of the applicant to comply with the consultation requirements. The tribunal is therefore satisfied that it is reasonable to dispense with all or any of the consultation requirements in relation to the repair works
13. Whether the works are carried out to a reasonable standard and at a reasonable cost, and the liability to pay such cost are not matters which fall within the jurisdiction of the tribunal in relation to this present application. This decision does not affect the tribunal’s jurisdiction upon any future application to make a determination under section 27A of the Act in respect of the reasonableness and /or cost of the works.

Name: Judge Pittaway Date: 23 February 2021.

ANNEX - RIGHTS OF APPEAL

1. 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.
2. 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.

3. 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.

4. 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.