



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

Case Reference	:	CAM/26UE/LDC/2022/0019
HMCTS code (paper, video, audio)	:	P:PAPERREMOTE
Property	:	Oak View, Aspen Place, Bushey Heath, Bushey WD23 1FW
Applicant	:	Windmill Place Bushey Management Company Limited
Representative	:	Ayla Can, Senior Property Manager, Barnard Cook
Respondents	:	All leaseholders of dwellings at the Property
Type of application	:	For dispensation from consultation requirements - Section 20ZA of the Landlord and Tenant Act 1985
Tribunal members	:	Judge David Wyatt
Date of decision	:	31 May 2022

DECISION

Covid-19 pandemic: description of determination

This has been a remote determination on the papers which the parties are taken to have consented to, as explained below. The form of determination was P:PAPERREMOTE. A hearing was not held because it was not necessary; all issues could be determined on paper. The documents I was referred to are in the hard copy bundle of 65 pages prepared by the Applicant pursuant to the directions described below. I have noted the contents and my decision is below.

The tribunal's decision

The tribunal determines under section 20ZA of the Landlord and Tenant Act 1985 to dispense with all the consultation requirements in relation to the lift repair works.

Reasons for the tribunal's decision

The application

1. The Applicant management company, represented by their managing agent, applied for dispensation with the statutory consultation requirements in respect of qualifying works to repair a lift.
2. The relevant contributions of the Respondents through the service charge towards the costs of these works would 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. In this application, 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, the parties and the leases

5. The Applicant described the Property as a purpose-built residential block accommodating 12 units over ground to third floors. The Applicant is the management company under the sample lease provided. The landlord named in the lease is Heronslea (Bushey 3) Limited.
6. The sample lease produced by the Applicant includes a covenant by the management company to repair the lifts (clause 8.3) and a covenant by the leaseholder (clause 6.1) to pay the Service Charge (a proportion of the Service Costs specified in part 2 of Schedule 6).

Procedural history

7. On 27 April 2022, I gave case management directions, requiring the Applicant management company to by 5 May 2022 serve on the landlord and the Respondents copies of the application form, a brief description of the works and the estimated costs, and the directions.
8. The directions included a reply form for any Respondent leaseholder who objected to the application to return to the tribunal and the Applicant, indicating whether they wished to have an oral hearing. Any such objecting leaseholder was required to respond by 19 May 2022. The directions provided that this matter would be determined on or after 31 May 2022 based on the documents, without a hearing, unless any party requested an oral hearing.
9. On 17 May 2022, the Applicant confirmed it had sent the copy documents to the Respondents as directed on 28 and 29 April 2022. They said they were unsure whether copies had been sent to the landlord. The bundle includes an e-mail from the managing agents on 23 May 2022, apparently to the landlord, attaching copies of the relevant documents and informing them that any objection or application to join the proceedings would need to be sent to the tribunal and the Applicant by no later than 30 May 2022.
10. No leaseholder has responded to the application or requested an oral hearing. Nor has the landlord (who is not a party to these proceedings and appears unlikely to be interested in them, but was notified of the application for the sake of completeness). In the circumstances, under rule 31(3) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, I regard the parties as having consented to this matter being determined without a hearing. This determination is based on the documents produced by the Applicant in the bundle they prepared pursuant to the directions. 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

11. In the application form, the Applicant said the works related to a single lift. They said the managing agents had recently taken over management and the lift was out of action. They said repair work was needed urgently to restore operation of the lift, because residents on the third floor had "mobility issues". They anticipated that the works could be completed in three to four weeks.
12. In their letter of 29 April 2022, sent to leaseholders with the application form and directions, the managing agent explained that the lift repair

works included replacement of the lift “ropes”. They said quotes of £4,900 plus VAT and £5,000 plus VAT had been obtained for the works and they had been advised to proceed with Orona for the higher price (i.e. £6,000 including VAT) because they are the current lift installer and maintenance company. In addition to the cost of the works, the managing agents refer to a proposed fee of £500 plus VAT for organising the works and dealing with the application for dispensation.

The Respondents’ position

13. 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 documents provided by the Applicant. In the circumstances, the tribunal concluded that the application was unopposed.

The tribunal’s decision

14. This application was not opposed by the Respondents, who have not challenged the information provided by the Applicant, identified any prejudice they might suffer because of the non-compliance with the consultation requirements, or in these proceedings asked for or provided any other information. In the circumstances, based on the information provided by the Applicant (as summarised above), I am satisfied that it is reasonable to dispense with the statutory consultation requirements in relation to the lift repair works.
15. **As noted above, this decision does not determine whether the cost of these works was reasonable or payable under the leases, only whether the consultation requirements should be dispensed with in respect of them.**
16. The tribunal determines under section 20ZA of the 1985 Act to dispense with all the consultation requirements in relation to the lift repair works.
17. There was no application to the tribunal for an order under section 20C of the 1985 Act.
18. The Applicant management company shall be responsible for serving a copy of this decision on all relevant leaseholders.

Name: Judge David Wyatt

Date: 31 May 2022

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).