



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

**Case reference** : **LON/00BK/LDC/2021/0141**

**HMCTS code (paper, video, audio)** : **P: PAPER REMOTE**

**Property** : **The Hall, 23 Grove End Road, St. Johns Wood, London NW8 9BN**

**Applicant** : **L.J. Holdings**

**Representative** : **Alexander Reece Thomson LLP**

**Respondents** : **The lessees listed in a schedule to the application**

**Type of application** : **To dispense with the requirement to consult leaseholders**

**Tribunal Member** : **Judge N Hawkes**

**London Panel** : **10 Alfred Place, London WC1E 7LR**

**Date of paper determination** : **1 September 2021**

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**DECISION**

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## **Covid-19 pandemic: PAPER DETERMINATION**

This has been a paper determination which has not been objected to by the parties. The form of remote determination was P:PAPER REMOTE. A face-to-face hearing was not held because it was not practicable and all issues could be determined on the papers. The documents that the Tribunal was referred to are contained in bundle of 196 pages. The order made is described below.

### **Decision of the Tribunal**

The Tribunal determines, pursuant to section 20ZA of the Landlord and Tenant Act 1985, that it is reasonable to dispense with the statutory consultation requirements in respect of the work which forms the subject matter of the Applicant's application dated 25 May 2021.

### **Background**

1. The Applicant has applied to the Tribunal under S20ZA of the Landlord and Tenant Act 1985 ("the 1985 Act") for dispensation from the consultation requirements contained in section 20 of the 1985 Act in respect of certain qualifying works to repair the lift at The Hall, 23 Grove End Road, St. Johns Wood, London NW8 9BN ("the Property").
2. The Tribunal has been informed that the Property comprises a purpose-built block containing 12 flats.
3. The application is dated 25 May 2021 and the Respondent lessees are listed in a schedule to the application.
4. Directions of the Tribunal were issued on 7 July 2021.
5. The Applicant has requested a paper determination. No application has been made by any of the Respondents for an oral hearing. This matter has therefore been determined by the Tribunal by way of a paper determination on 1 September 2021.
6. The Tribunal did not consider an inspection of the Property to be necessary or proportionate to the issues in dispute.

### **The Applicant's case**

7. In the application, the Applicant states:

*"Currently the lift is out of operation. The lift is essential for the residents on the upper floors. We need the lift to be repaired as soon as possible*

...

*The qualifying works consist of replacing the lift's main drive and power supply, and repairing the processor board. These parts need to be repaired/replaced as they have failed following a power outage, and are now inoperative. The lift is maintained by DAB Lifts and they have sent the drive for inspection, and come back with a quote of £5,897.90 + VAT.*

*Given the technical nature of a lift repair, and the fact that DAB Lifts have the benefit of the DAB software, and supporting computer programme tools, we think that they are best placed to carry out the repair works. In this case we think it is best that the company which maintains the lift carries out the repair to ensure that the works are carried out to the highest standard, and to prevent further problems in the future.*

...

*We are yet to undertake a consultation with the residents. We propose to formally write to each resident stating what works are required, why, and who our chosen contractor is. We will also explain the urgency of the works and why we are therefore seeking dispensation from the section 20 consultation process as a result.”*

8. It appears from correspondence contained in the determination bundle that the lift repair work has now been carried out.

### **The Respondents' case**

9. None of the Respondents have filed a reply form and/or representations to the Tribunal opposing the Applicant's application.

### **The Tribunal's determination**

10. Section 20 of the 1985 Act provides for the limitation of service charges in the event that statutory consultation requirements are not met.
11. The consultation requirements apply where the works are qualifying works (as is the case in this instance) and only £250 can be recovered from a tenant in respect of such works unless the consultation requirements have either been complied with or dispensed with.
12. The consultation requirements are set out in the Service Charges (Consultation Requirements) (England) Regulations 2003.
13. Section 20ZA of the 1985 Act provides that, where an application is made to the Tribunal for a determination to dispense with all or any of the consultation requirements in relation to any qualifying works, the

Tribunal may make the determination **if satisfied that it is reasonable to dispense with the requirements.**

14. In all the circumstances and having considered the contents of the determination bundle including:
  - a. the Applicant's application;
  - b. the evidence filed in support of the application; and
  - c. the lack of any opposition and/or challenge to the Applicant's account on the part of the Respondents;

the Tribunal determines, pursuant to section 20ZA of the Landlord and Tenant Act 1985, that it is reasonable to dispense with the statutory consultation requirements in respect of the work which forms the subject matter of the Applicant's application dated 25 May 2021.

15. **This decision does not concern the issue of whether any service charge costs will be reasonable or payable.**

Judge N Hawkes

Date: 1 September 2021

### **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).