



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

Case reference : LON/00BJ/LDC/2022/0127

**Landlord
/Applicant** : Carlton Gate Limited

Property : 42 Carlton Drive, Putney, London SW15
2DG

Representative : Warwick Estates Harlow (Mr Robert
Goode)

**Tenants/
Respondents** : Leaseholders of 1-24 Newton House,
Union Grove, London, SW8 2RZ set out
on the Schedule below

Representatives : None

Tribunal : Mr Charles Norman FRICS
Ms Jill Gittus MRICS

Date of Decision : 25 September 2022

DECISION

Decision

1. Dispensation in respect of costs to carry out urgent lift repairs necessitated by the Allianz report of 15 December 2021 (see below) is **GRANTED UNCONDITIONALLY.**

Reasons

Background

1. On 30 May 2022, the applicant applied for dispensation from the statutory consultation requirements in respect of repairs which have been carried out to remedy an urgent disrepair in respect of a lift at the property. This was said to be a health and safety requirement and needed to prevent entrapment; the lift was used by the elderly disabled and those with children. Repairs were therefore urgent.

2. On 20 July 2022, the Tribunal set the case down for determination by written representations unless any party objected, which none did. The applicant was directed to serve the application on the respondents and give publicity within the common parts of the property. This was confirmed by email. The respondents were invited to serve objections if they so wished, using a proforma form appended to the directions.

The Applicants' Case

3. The lift safety issues came to light following a recent engineering insurance inspection. Immediate action was required. The lift contractor was asked to consider the report and asked to identify works falling within insurance cover and those for which the landlord would be responsible and for which lessees would need to contribute. A report from Allianz dated 15 December 2021 was included which supported the Applicants case.
4. A stage 1 consultation letter was sent to leaseholders on 5 May 2022.
5. A statement of estimates was sent to leaseholders dated 19 July 2022 with alternative quotes from Unique Lifts of £3,954.99 and Elevators Limited of £5,776.80 both inclusive of VAT.

The Tenants/Respondents' case

6. None of the tenants/respondents responded to the application.

The Law

7. Section 20ZA is set out in the appendix to this decision. The Tribunal has discretion to grant dispensation when it considers it reasonable to do so. In addition, the Supreme Court Judgment in *Daejan Investments Limited v Benson and Others* [2013] UKSC 14 empowers the Tribunal to grant dispensation on terms or subject to conditions.

Findings

8. The Tribunal finds that the applicant has acted reasonably in dealing with this urgent disrepair and it notes that that none of the tenants have objected to the application. A stage 1 consultation and statement of estimates was served on the lessees. The applicant informed the Tribunal that the successful tenderer was Unique Lifts (see above), being the lowest estimate .The Tribunal has identified no prejudice suffered by the respondents. Therefore dispensation under section 20ZA is granted unconditionally in respect of the consultation requirements for these works.

- 9. However, this decision has no bearing on the question of the reasonableness of costs to be incurred or their payability. The Tribunal makes no findings in relation to those matters.**

C Norman FRICS
Valuer Chairman

25 September 2022

Schedule of Lessees

**Mrs Elizabeth Mildred Davis
Tiang Joo Su and Sheila Eleanor De Costa
Peter Cameron Taylor and Annis Clare Scott Taylor
Kshitij Jain & Anchal Jain
Matthew James Swan & Susannah Margaret Noy Swan
Erika Galimurza & Elizaveta Gamburg
Richard David Kenneth Moody and Ruth Diana Moody
Natalie Fraser & Mark William Fraser
Marcus Miholich
Mona Hakim and Nora Hakim**

ANNEX - RIGHTS OF APPEAL

- The Tribunal is required to set out rights of appeal against its decisions by virtue of the rule 36 (2)(c) of the Tribunal Procedure (First-tier Tribunal)(Property Chamber) Rules 2013 and these are set out below.
- If a party wishes to appeal against 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.

Appendix

Section 20ZA Landlord and Tenant Act 1985

(1) Where an application is made to [the appropriate 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.

(2) In section 20 and this section—

“qualifying works” means works on a building or any other premises, and

“qualifying long term agreement” means (subject to subsection (3)) an agreement entered into, by or on behalf of the landlord or a superior landlord, for a term of more than twelve months.

(3) The Secretary of State may by regulations provide that an agreement is not a qualifying long term agreement—

(a) if it is an agreement of a description prescribed by the regulations, or

(b) in any circumstances so prescribed.

(4) In section 20 and this section “the consultation requirements” means requirements prescribed by regulations made by the Secretary of State.

(5) Regulations under subsection (4) may in particular include provision requiring the landlord—

(a) to provide details of proposed works or agreements to tenants or the recognised tenants’ association representing them,

(b) to obtain estimates for proposed works or agreements,

(c) to invite tenants or the recognised tenants’ association to propose the names of persons from whom the landlord should try to obtain other estimates,

(d) to have regard to observations made by tenants or the recognised tenants’ association in relation to proposed works or agreements and estimates, and

(e) to give reasons in prescribed circumstances for carrying out works or entering into agreements.

(6) Regulations under section 20 or this section—

(a) may make provision generally or only in relation to specific cases, and

(b) may make different provision for different purposes.

(7) Regulations under section 20 or this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.