



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

Case Reference : LON/00BG/LDC/2017/0071

Property : Flats 1-19, 27 Wheler Street, London E1
6ND

Applicant : Sarum Properties Limited

Representative : Remus Management Limited

Respondents : See attached schedule

Representative : None

Type of Application : Dispensation from consultation
requirements under section 20ZA
Landlord and Tenant Act 1985

Tribunal Member : Mr Charles Norman FRICS
(Valuer Chairman)

Date of Decision : 9 August 2017

Determination by Written Representations

DECISION

Decision

1. Dispensation from compliance with the consultation requirements in respect of lift repairs to be carried out by DAB Lift and Electrical Services at the property at a cost of £4584.97 plus VAT is **GRANTED**.

Reasons

Background

2. This application which (received by the tribunal on 3 July 2017) is for dispensation from compliance from the consultation requirements under section 20 of the Landlord and Tenant Act 1985. The proposed works are lift repairs for which a description of the defects and quotation from DAB lift and Electrical Services Limited, dated 13 June 2017, accompanied the application.
3. Directions were issued on 10 July 2017 in which the application was set down for determination by written representations. The directions required the applicant to send copies of the application and display the application in the common parts of the property. Any lessees opposing the application were directed to reply to the application by 24 July 2017.

The Applicant's Case

4. The property comprises a purpose-built block of 19 self-contained flats. The building is 5 storeys and the lift gives direct access to undercroft parking. The lift has been taken out of service for safety reasons and this needs to be remedied as soon as possible.
5. The DAB quotation states that the emergency lowering system is inoperative; the brake release cable is kinked; the auto-dialler on the lift requires replacement with a fully open protocol system; the emergency backup battery on the car top will be replaced per a previous insurance report.

The Respondents' Case

6. No reply was received from the Respondents

The Lease

7. A sample lease was provided (Flat 2) which shows that the property was let for 125 years from 2006. By clause 4 the lessee covenants to pay a proportion of Annual Contribution towards expenditure in relation to the Lessor's obligations. By Clause 5(2)(a) the cost of repairing lifts is specifically included.

The Law

8. 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.

Reasons

9. The tribunal considers proper and safe operation of the lift is urgent in a building of this nature. The tribunal finds that the applicant has fully complied with directions to publicise the application and that no lessee has objected. The tribunal is satisfied that the nature of the work in principle falls within recoverable expenditure under the leases.

Note

10. The parties should note that this determination does not amount to a finding that the amounts to be incurred are necessarily reasonable or payable but is solely concerned with dispensation from the consultation requirements.

C Norman FRICS
Valuer Chairman

9 August 2017

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.