



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

<b>Case Reference</b>	:	<b>LON/00AW/LDC/2019/0097</b>
<b>Property</b>	:	<b>31 Lennox Gardens London SW1X 0DE</b>
<b>Applicant</b>	:	<b>31 Lennox Gardens (Freehold) Limited</b>
<b>Representative</b>	:	<b>Hammond Bale LLP</b>
<b>Respondent</b>	:	<b>Various leaseholders of the 9 flats that comprise the property, the details of which are on the application.</b>
<b>Representative</b>	:	<b>None</b>
<b>Type of Application</b>	:	<b>An application under section 20ZA of the Landlord and Tenant Act 1985 for dispensation from consultation prior to carrying out works.</b>
<b>Tribunal Members</b>	:	<b>Mr I B Holdsworth FRICS MCI Arb</b>
<b>Date and venue of Hearing</b>	:	<b>24<sup>th</sup> July 2019, 10 Alfred Place, London WC1E 7LR.</b>
<b>Date of Decision</b>	:	<b>24<sup>th</sup> July 2019</b>

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**DECISION**

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## **Decisions of the Tribunal**

**The Tribunal determines that dispensation should be given from all the consultation requirements in respect of the works to repair and renew the Lift, (defined as the “Lift Works”) at 31 Lennox Gardens London SW1X 0DE required under s.20ZA of the Landlord and Tenant Act 1985 (the “Act”) for the reasons set out below. The agreed cost of the Lift works is £4,112.80 inclusive of VAT.**

### **The application**

1. The Applicant seeks a determination pursuant to s.20ZA of the Landlord and Tenant Act 1985 (“the 1985 Act”) to dispense with the statutory consultation requirements associated with undertaking essential maintenance and renewal to the lift at 31 Lennox Gardens London SW1X 0DE “the property”.
2. An application was received by the First-tier Tribunal dated 18<sup>th</sup> June 2019 seeking dispensation from the consultation requirements. Directions were issued on the 24<sup>th</sup> June to the Applicant. These Directions required the Applicant to advise all Respondents of the application and provide them with details of the proposed works.
3. The relevant legal provisions are set out in the Appendix to this decision.

### **The hearing**

4. This matter was determined by written submissions. The Applicant submitted a bundle of relevant materials to the Tribunal.
5. Two responses are received from the Respondents. These both support the application for dispensation.

### **The background**

6. The property which is the subject of this application is a five-storey building including basement with 9 self-contained flats. The flats are formed from the conversion of a former mansion block.
7. The lift serves all floors. The operation of the lift failed in June 2019. The residents of the flats subsequently relied upon the communal stairway to access their flats whilst the managing agent Marler & Marler liaised with the lift maintenance company, Bell Lifts Ltd of Bromley, Kent over the repair and renewal of the apparatus.

8. An initial cost estimate of £2,906.40 inclusive of vat was provided by Bell Lifts but during the repair works further defects were identified. On the advice of the maintenance company these additional works were carried out to ensure efficient operation of the lift and improved longevity of the operating system.
9. A single quote was obtained for the Lift Works by the Applicants. The total cost of the works was £4,112.80 inclusive of vat. The Tribunal understand the Lift Works are now completed.
10. No Notice of Intention to carry out the proposed Lift Works was sent to leaseholders.
11. It is not the intention of the Applicants to carry out any further consultation about this matter.
12. The Applicant contends that the Lift Works were needed urgently to ensure the health and safety of residents, particularly of those elderly and vulnerable residents who occupy flats on the upper floors of the building.
13. Prior to my determination I had available a bundle of papers which included the application, the directions and a copy of written representations prepared by the Applicant that provided information on the background to the lift works.
14. A copy of a specimen lease for each flat is supplied. The cost of carrying works to the Common Parts is chargeable under the Expenditure of Service Charge provision at 4.2 in the lease. At 4.2.2 (d) service charge expenditure includes, *“To maintain and where necessary renew or replace any existing lift and ancillary equipment relating thereto”*
15. The only issue for me to consider is whether or not it is reasonable to dispense with the statutory consultation requirements in respect of the Works. This application does not concern the issue of whether any service charge costs are reasonable or payable.

### **The determination**

16. I have considered the papers lodged. There is no objection raised by the Respondents, either together or singularly. Two Respondents offered their support to the application to dispense with the consultation procedures.
17. There is a demonstrated need to carry out the lift works urgently to prevent harm and inconvenience to residents at the property. I cannot

identify any prejudice caused to the Respondents by the grant of dispensation from the statutory consultation procedure.

18. It is for these reasons that I am satisfied it is appropriate to dispense with the consultation requirements for the lift works. It is noted no competitive quotes were submitted with the Application.
19. **My decision does not affect the right of the Respondents to challenge the costs or the standard of work should they so wish.**
20. **In accordance with paragraph 10 of the Directions, it is the Applicant's responsibility to serve a copy of the Tribunal's decision on all Respondent leaseholders listed on the Application.**

Valuer Chairman    Ian B Holdsworth

24<sup>th</sup> July 2019

## **Appendix of relevant legislation**

### **Section 20 of the Act**

- (1) Where this section applies to any qualifying works or qualifying long term agreement, the relevant contributions of tenants are limited in accordance with subsection (6) or (7) (or both) unless the consultation requirements have been either—
  - (a) complied with in relation to the works or agreement, or
  - (b) dispensed with in relation to the works or agreement by (or on appeal from) a leasehold valuation tribunal.
- (2) In this section “relevant contribution”, in relation to a tenant and any works or agreement, is the amount which he may be required under the terms of his lease to contribute (by the payment of service charges) to relevant costs incurred on carrying out the works or under the agreement.
- (3) This section applies to qualifying works if relevant costs incurred on carrying out the works exceed an appropriate amount.
- (4) The Secretary of State may by regulations provide that this section applies to a qualifying long-term agreement—
  - (a) if relevant costs incurred under the agreement exceed an appropriate amount, or
  - (b) if relevant costs incurred under the agreement during a period prescribed by the regulations exceed an appropriate amount.
- (5) An appropriate amount is an amount set by regulations made by the Secretary of State; and the regulations may make provision for either or both of the following to be an appropriate amount—
  - (a) an amount prescribed by, or determined in accordance with, the regulations, and
  - (b) an amount which results in the relevant contribution of any one or more tenants being an amount prescribed by, or determined in accordance with, the regulations.
- (6) Where an appropriate amount is set by virtue of paragraph (a) of subsection (5), the amount of the relevant costs incurred on carrying out the works or under the agreement which may be taken into account in determining the relevant contributions of tenants is limited to the appropriate amount.
- (7) Where an appropriate amount is set by virtue of paragraph (b) of that subsection, the amount of the relevant contribution of the tenant, or each of the tenants, whose relevant contribution would otherwise exceed the amount prescribed by, or determined in accordance with, the regulations is limited to the amount so prescribed or determined.

## **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).