



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

Case reference : **LON/00AW/LDC/2019/0191**

Property : **Campden House Court, 42
Gloucester Walk, W8 4HU**

Applicant : **Pitt Kensington Estate**

Representative : **Written Application by D&G Block
Management Ltd (Managing
Agents)**

Respondent : **12 leaseholders as named in the
application**

Representative : **None.**

Type of application : **Application for dispensation from
consultation requirements under
s20ZA of the Landlord and Tenant
Act 1985**

Tribunal members : **Mr A Harris LLM FRICS FCI Arb**

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

Date of decision : **3 February 2020**

DECISION

Decisions of the tribunal

- (1) The tribunal grants dispensation from the consultation requirements under s20 ZA of the Landlord and Tenant Act 1985.

The application

1. The Applicant seeks dispensation from the consultation requirements under s20ZA of the Landlord and Tenant Act 1985.
2. The relevant legal provisions are set out in the Appendix to this decision.

The hearing

3. A written application was made by D&G Block Management Ltd, the managing agents of the property. The case was decided on paper and no appearances were made. The tribunal considered the written application form, copy letters to the leaseholders, reports and estimates and a specimen lease.

The background

4. The property which is the subject of this application is a purpose-built block of 12 flats constructed in 1898. The building is of traditional construction and has a lift dating from circa 1940. The last major works to the lift were carried out in 1993. The application states that the major upgrades to the lift are required following a number of breakdowns, resulting in the lift being placed out of use due to safety concerns. Asbestos has also been identified which needs to be removed as part of the works.
5. A specimen lease has been provided. A list of leaseholders has been provided with confirmation from the agents that they have been notified of the proposed works. Letters confirming support for the works are in the correspondence and no representations have been received objecting to the application as to the scope of the works or appropriateness of the application.
6. The works fall within the landlords repairing covenants of the lease and the cost is recoverable under the service charge provisions, subject to any challenge under s27 of the Landlord and Tenant Act 1985.

The Works

7. The lift was out of use. A consultation was started some time before with a view to upgrading the lift but this was overtaken by the breakdown. A number of residents are said to be reliant on the lift due to age or illness so repairs were urgent. Estimates were obtained from Aspect Lift Ltd for £16,712 and the R & R Lift Co for £16338.
8. R & R were instructed to do the works.
9. In addition, asbestos removal was costed at £4664.50.
10. Professional fees come to £1550.00 and £525.00 making a total of £23107.50 plus VAT.

The tribunal's decision

11. The tribunal grants dispensation from the consultation requirements of under s20 ZA of the Landlord and Tenant Act 1985 and the Service Charges (Consultation Requirements) (England) Regulations 2003.

Reasons for the tribunal's decision

12. The tribunal is satisfied that the works were required to restore the lift to safe working order. The degree of urgency was such that the works were carried out before a consultation could be completed or dispensation obtained. The tribunal is satisfied that lessees were informed of the need for the work and agreed it was necessary. There is no prejudice to the lessees by giving dispensation.

Name: A Harris LLM FRICS FCI Arb

Date: 3 February 2020

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).

Appendix of relevant legislation

S20 Limitation of service charges: consultation requirements

- (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.^[FN1]

[FN1] ss.20-20ZA substituted for s.20 subject to savings specified in SI 2004/669 art.2(d)(i)-(vi) by Commonhold and Leasehold Reform Act (2002 c.15), Pt 2 c 5 s 151

S20ZA Consultation requirements: supplementary

- (1) Where an application is made to a leasehold valuation 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.[...] [FN1]

[FN1] ss.20-20ZA substituted for s.20 subject to savings specified in SI 2004/669 art.2(d)(i)-(vi) by Commonhold and Leasehold Reform Act (2002 c.15), Pt 2 c 5 s 151