



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

**Case reference** : **CAM/11UE/LDC/2021/0049**  
**P:Paperremote**

**Property** : **Mackintosh and Grosvenor Court,  
Packhorse Road, Gerrards Cross,  
Bucks SL9 8EN**

**Applicant** : **Mackintosh Court Management  
Company Limited**

**Respondent  
leaseholders** : **The leaseholders named in the  
application**

**Type of application** : **To dispense with the consultation  
requirements under S.20 Landlord  
and Tenant Act 1985**

**Tribunal member(s)** : **Mrs E Flint FRICS**

**Date and venue of  
determination** : **16 December 2021  
Remote on the papers**

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**DECISION**

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This has been a remote hearing on the papers which has been consented to by the Applicant and not objected to by the Respondent. A face to face hearing was not held because it was not practicable, no-one requested the same, and all the issues could be determined on the papers. The documents that I was referred to were in an electronic bundle, the contents of which I have recorded.

### **Decision of the tribunal**

- (1) The Tribunal grants dispensation from all of the consultation requirements under S.20 of the Landlord and Tenant Act 1985 in relation to lift repairs.
- (2) The question of reasonableness of the works or cost was not included in this application, the sole purpose of which is to seek dispensation.

### **The Background**

1. The application under section 20ZA of the Landlord and Tenant Act 1985 (“the Act”) was made by the Applicant landlord on 9 November 2021.
2. The landlord has applied for dispensation from the statutory consultation requirements under section 20 of the Landlord and Tenant Act 1985 and the Service Charges (Consultation Requirements) (England) Regulations 2003 in respect of repairs to the lifts in both blocks. The work is estimated to cost approximately £5,000 plus VAT. The application is said to be urgent, as the lifts had ceased to operate and the directors considered it important to carry out the repairs as soon as possible to ensure the health, safety and wellbeing of the residents, some being elderly and reliant on the lift for safe and convenient access to their homes. Two quotes have been obtained and the lower one chosen, no additional service charge contributions have been sought as the cost has been covered by reserves.
3. Directions were issued on 15 November 2021 requiring the applicant to prepare bundles to include statements
  - (i) Setting out the full grounds for the application, including all of the documents on which the landlord relies and copies of any replies from the tenants;
  - (ii) The Leaseholders were asked to confirm by 30 November 2021 whether or not they would give their consent to the application.
  - (iii) In the event that such agreement was not forthcoming the leaseholders were to state by 30 November 2021 why they opposed the application and provide copies of all documents to be relied upon.

4. No objections were received from the leaseholders.
5. The Leaseholders were informed in the Directions issued by the Tribunal that the question of reasonableness of the works or cost was not included in this application, the sole purpose of which is to seek dispensation.

### **The Evidence**

6. Mackintosh and Grosvenor Court comprise two purpose built blocks of eight and six flats respectively within the same development.
7. There have been repeated failures of both lifts over the past two years. Moreover the lift in Mackintosh Court has been out of use for several weeks causing significant inconvenience to a number of residents some of whom are elderly or have mobility issues. The repairs are the minimum works necessary to ensure that both lifts are working but may not provide a long term solution.
8. Once the lifts are repaired the Directors intend to obtain a survey of the condition of the lifts as advice has already been received that one of the lifts may require replacement. If replacement is necessary this will be subject to full section 20 consultation.

### **The Decision**

9. The relevant test to be applied in an application for dispensation was set out by the Supreme Court in *Daejan Investments Ltd v Benson & Ors* [2013] UKSC 14 where it was held that the purpose of the section 20 consultation procedure was to protect tenants from paying for inappropriate works or paying an inappropriate amount. Dispensation should not result in prejudice to the tenant.
10. The Tribunal determines from the evidence before it that the works were necessary, were required to be completed urgently and that no prejudice to the lessees has been demonstrated or asserted.
11. On the evidence before it, and in these circumstances, the Tribunal considers that the application for dispensation be granted.

**Name:** Evelyn Flint

**Date:** 16 December 2021

## **RIGHTS OF APPEAL**

1. 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.
2. 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.
3. 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.
4. 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.