



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

Case reference : **LON/00BG/LDC/2021/0147**
P:Paperremote

Property : **St Hilda's Wharf 160 – 170**
Wapping High Street London E1
3PQ

Applicant : **St Hilda's Wharf (Wapping)**
Management Company Limited

Representative
D & GBM Limited

Respondent leaseholders : **The Leaseholders listed on 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**
Mr S Wheeler MCIEH, CEnvH

Date and venue of determination : **Remote on the papers**

DECISION

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.

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 the replacement of the hydraulic system of the lift in No.170 St Hilda's Wharf 160 – 170 Wapping High Street London E1 3PQ.
- (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 applicants on 20th May 2021.
2. The application concerned the replacement of the hydraulic system for the lift serving the 12 flats over six floors and the basement car park. There is only one lift available for the flats in No.170.
3. Directions were issued on 26 July 2021 requiring the applicant to prepare bundles by 27 August 2021 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 10 August 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 why they opposed the application; and provide copies of all documents to be relied upon.
4. No objections to the application were received from the leaseholders. Emails were received from an elderly resident who had moved out of his flat because he was unable to occupy the flat without the use of the lift and a second leaseholder was unable to move in until the lift was repaired. In addition, three leaseholder Directors of the Board of Directors of the freehold company, who all live in No.160 and are not directly affected by the works, had indicated their support.

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. St Hilda's Wharf is a purpose built block of 39 units. There are two entrances each served by its own stairwell and lift. There is a shared car park and garden. All the leases are on similar terms.
7. On 30 April 2021 the lift in No. 170 suddenly failed. It was established that the hydraulic system had failed and that the lead time for the works was 6 weeks from instruction.
8. There are a number of elderly residents in the building who depend on the lift for access to their flats. The Board of Directors decided that it was unreasonable in the circumstances to delay the works to enable consultation to take place and decided to seek dispensation from the S20 consultation process.
9. On 12 May the leaseholders were advised by letter and/or email that the works were required and that dispensation would be sought. The letter included details of the works, the cost of £12,243 + VAT and the Notice of Intention to carry out the works.
10. The managing agents instructed Titan to carry out the works. The company were familiar with the lift as they are employed to carry out regular maintenance of the lifts in the block. In fact, the lead time was reduced to five weeks and the work completed.
11. The management company had approached five other lift companies for quotations: none could provide a quotation quickly. A second quotation was received on 26 July 2021 in the sum of £11,035 + VAT. Although the quotation is lower, the priority was to get the lift working as quickly as possible rather than delaying, in the hope that a lower quote could be obtained.
12. No objections to the application have been received.

The Decision

13. 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.

14. The Tribunal determines the replacement of the hydraulic system was urgent. The occupants of the block included those reliant upon a working lift, one resident had to find alternative accommodation and another was unable to take up residence.
15. The Tribunal determines from the evidence before it that no prejudice to the lessees has been demonstrated. The slightly lower cost of the second quotation would have to be offset against the inconvenience of the lift being out of order for a considerably longer period of time.
16. On the evidence before it, and in these circumstances, the Tribunal considers that the application for dispensation be granted.

Name: Evelyn Flint

Date: 6 September 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.

