



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

Case reference : **LON/00BG/LDC/2021/0313P**

Property : **Seacon Tower, 6 Hutchings Street,
London E14 8JX**

Applicant : **Seacon Residents Company Ltd**

Representative :

Respondents : **The leaseholders named on the
application**

Representative :

Type of application : **For the dispensation of some of the
consultation requirements under
s.20 Landlord and Tenant Act 1985**

Tribunal members : **Judge Simon Brilliant
Mr T Sennett FCIEH**

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

Date of decision : **10 March 2022**

DECISION

Decision of the Tribunal

The Tribunal determines that those parts of the consultation requirements provided for by s.20 of the Landlord and Tenant Act 1985 ("the Act") which have not been complied with are to be dispensed with.

This has been a hearing on the papers which has been not objected to by the parties. The form of remote hearing was P. A face to face hearing was not held because it was not practicable, and all issues could be determined on paper. The critical documents that we were referred to are the Applicant's bundle spreads over two attachments. The order made is described at the end of these reasons.

The application

1. The Applicant seeks a determination pursuant to s.20ZA of the Act for the dispensation of all or any of the consultation requirements provided for by s.20 of the Act. The application was dated 01 November 2021.
2. Directions of the Tribunal were issued on 14 January 2022.
3. The case was listed for a paper determination. No request had been made by any of the parties for an oral hearing.

The hearing

4. The matter was determined by way of a paper hearing which took place on 07 March 2022.

The background

5. Seacon Tower consists of 99 flats in a high quality block on 21 floors in Docklands.

The application

6. The Applicant has applied for dispensation from the statutory consultation requirements in respect of certain lift works because they were necessary and posed a health and safety risk. They needed to be urgently carried out. Such qualifying works included the installation of two new lift control panels and a firefighting intercom (initial works) and two new lift motors and two new lift cables in the subject premises (additional works). The Applicant also has to take into account the cladding works surrounding Seacon Tower and the fact one of the lifts is a firefighting lift which needs to be operational in the event of a fire.

7. A notice of intention to carry out the initial works was given on 6 December 2020 and the consultation period ended on 18 January 2021; no objections were received from any of the respondents during the consultation period. A statement of estimates relating to the initial works was given on 22 March 2021 which contained only one estimate and ended on 24 April 2021. No written observations were received by the Applicant during the consultation period. No consultation has been carried out in relation to the additional works.

8. The only issue for the Tribunal is whether it is reasonable to dispense with the statutory consultation requirements. **This application does**

not concern the issue of whether any service charge costs will be reasonable or payable.

The evidence

11. The Applicant's case is clearly set out in the grounds for seeking dispensation in the application notice.

12. Following an inspection of the passenger lifts at the subject premises, the Applicant was advised that new lift control panels and a firefighting intercom should be installed to improve the reliability and safety of the passenger lifts. The Applicant was further advised that two new lift motors and two new lift cables were needed.

13. Unless the lift works were carried out swiftly, it would present a risk to the health and safety of residents within the building. The Applicant also had to take account of defects to the cladding surrounding Seacon Tower and the fact that one of the lifts is a firefighting lift that needs to be operational in the event of a fire. The lift works were therefore urgent.

14. If the full consultation process had been followed, the lift works would have been delayed for several months. Given the risk to the health and safety of the residents that would have been caused if the lifts were to fail in the meantime, the Applicant considered it reasonable to dispense with the consultation requirements.

15. It is the Applicant's understanding that the contractor chosen to carry out the lift works was a specialist in the area. A supervising lift consultant verified the works required and reviewed the contractor's estimate. The consultant confirmed to the Applicant that the cost of the works required were reasonable.

16. It is therefore submitted on behalf of the Applicant that the residents were not prejudiced as a result of the statutory consultation process not having been carried out and it was considered that all the leaseholders would benefit from the lift works being carried out as soon as possible.

17. The Applicants engaged Liftworks to carry out the works. The Applicant engaged a supervising lift consultant, Butler & Young Lift Consultants Ltd, verifying the works required and reviewing the contractor's estimate, which was said to be reasonable. The lifts are some 17 years old and are to require urgent maintenance works. Given the size of the block there is a need for a specialist fire lift. It is within our knowledge that the market for contractors in this very specialised field is limited.

Decision of the tribunal

18. s.20 of the Act provides for the limitation of service charges in the event that the statutory consultation requirements are not met. The consultation requirements apply where the works are qualifying works (as in this case) and only £250 can be recovered from a tenant in respect of such works unless the consultation requirements have either been complied with or dispensed with.

19. Dispensation is dealt with by s.20ZA of the Act which provides:-

"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"

20. The Tribunal is satisfied that, in the particular circumstances of this case, involving the necessary replacement of lifts, including a fire lift, it is reasonable to dispense with the consultation requirements in respect of the lift works.

21. The Tribunal's determination is limited to this application for dispensation of consultation requirements under section 20ZA of the Act.

Name: Simon Brilliant

Date: 07 March 2022