



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

**Case reference** : **LON/00BA/LDC/2020/0219**

**HMCTS code (paper, video, audio)** : **P: PAPER REMOTE**

**Property** : **Carrington House, 1a Montague Road, London SW19 1TZ**

**Applicant** : **Carrington House Right To Manage Company Limited**

**Representative** : **Together Property Management Limited**

**Respondents** : **The lessees listed in a schedule to the application**

**Type of application** : **To dispense with the requirement to consult leaseholders**

**Tribunal Member** : **Judge N Hawkes  
Mr P Roberts DipArch RIBA**

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

**Date of paper determination** : **12 January 2021**

---

**DECISION**

---

## **Covid-19 pandemic: PAPER DETERMINATION**

This has been a paper determination which has not been objected to by the parties. The form of remote determination was P:PAPER REMOTE. A face-to-face hearing was not held because it was not practicable and all issues could be determined on the papers. The documents that we were referred to are contained in an unnumbered bundle divided into eight sections, the contents of which we have noted. The order made is described below.

### **Decision of the Tribunal**

The Tribunal determines, pursuant to section 20ZA of the Landlord and Tenant Act 1985, that it is reasonable to dispense with the statutory consultation requirements in respect of the work to the lift serving the Property which forms the subject matter of the Applicant's application dated 15 November 2020.

### **Background**

1. The Applicant has applied to the Tribunal under S20ZA of the Landlord and Tenant Act 1985 ("the 1985 Act") for dispensation from the consultation requirements contained in section 20 of the 1985 Act in respect of certain qualifying works to Carrington House, 1a Montague Road, London SW19 1TZ ("the Property").
2. The Tribunal has been informed that the Property comprises a purpose-built block of nineteen flats.
3. The application is dated 15 November 2020 and the Respondent lessees are listed in a schedule to the application.
4. Directions of the Tribunal were issued on 26 November 2020. The Applicant has requested a paper determination.
5. No application has been made by any of the Respondents for an oral hearing. This matter has therefore been determined by the Tribunal by way of a paper determination on 12 January 2021.
6. The Tribunal did not consider an inspection of the Property to be necessary or proportionate to the issues in dispute.

### **The Applicant's case**

7. The Applicant, a Right to Manage company, has applied for dispensation from the statutory consultation requirements in respect of repair work to a communal lift serving the Property.
8. By letter dated 20 October 2020 to the Respondents, the Applicant stated:

*“Surveys conducted by two separate lift contractors both concluded that the drive unit and controller replacements are needed. The lift mechanism is almost twenty years old and as such the failure of these parts is not surprising.*

*The lack of a lift service is causing considerable hardship to residents who live on the upper floors of Carrington House; families with babies and very young children and elderly residents with serious medical problems are amongst some of those most affected.*

...

*MBL, who are the managing agents for Carrington House and act on instructions from the directors of CH RTM Co Ltd, have sourced quotes for the lift repair.*

*Surveys conducted by two separate lift contractors both concluded that the drive unit needs replacing. The cheapest quote of £6,870.30 plus VAT is from KONE plc, the lift manufacturers, and our current annual service provider.*

*The second quote is from Patron Lifts Ltd for £9,406.00 plus VAT.*

*Copies of both quotes are available from MBL should they be required.*

*The Directors have elected to choose KONE plc to complete the repair to the lift and would like to inform you that the monies to pay for the works will be coming out of the Reserve Fund.”*

9. Accordingly, the application is said to be urgent because the Property's only lift had broken down and the lack of a lift service was causing considerable hardship to residents who live on the upper floors, particularly families and elderly residents with serious medical problems. The Tribunal understands that the proposed work has now been completed.

### **The Respondents' case**

10. None of the Respondents have filed a reply form and/or representations opposing the Applicant's application.

### **The Tribunal's determination**

11. Section 20 of the 1985 Act provides for the limitation of service charges in the event that statutory consultation requirements are not met.
12. The consultation requirements apply where the works are qualifying works (as is the case in this instance) 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.

13. The consultation requirements are set out in the Service Charges (Consultation Requirements) (England) Regulations 2003.
14. Section 20ZA of the 1985 Act provides that, where an application is made to the Tribunal for a determination to dispense with all or any of the consultation requirements in relation to any qualifying works, the Tribunal may make the determination **if satisfied that it is reasonable to dispense with the requirements.**
15. In all the circumstances and having considered:
  - a. the information contained within Applicant's application;
  - b. the evidence filed in support of the application; and
  - c. the lack of any opposition and/or challenge to the Applicant's account on the part of the Respondents

the Tribunal determines, pursuant to section 20ZA of the Landlord and Tenant Act 1985, that it is reasonable to dispense with the statutory consultation requirements in respect of the work which forms the subject matter of the Applicant's application dated 15 November 2020.

16. **This decision does not concern the issue of whether any service charge costs will be reasonable or payable.**

Judge Hawkes

Date 12 January 2021

### **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).