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RESIDENTIAL PROPERTY TRIBUNAL

LEASEHOLD VALUATION TRIBUNAL

Reference:LVT/0016/09/25

In the Matter of Premises at Jones Point House and Flatholm House, Ferry Court, Cardiff Bay, CF11 0AU

And in the matter of an application under Section 20ZA of the Landlord and Tenant Act 1985

Applicant: **Prospect Place Management (Cardiff) Limited**

Representative: **Ringley Law LLP**

Leaseholders: **Leaseholders at Jones Point House and Flatholm House**

Type of Application: **To dispense with the requirement to consult lessees concerning qualifying works.**

Tribunal: **Colin Green (Chairman)**
David Evans FRICS (Surveyor Member)
Morgan Williams FRICS (Lay Member)

Date of determination: **4 December 2025**

DECISION

- (1) Pursuant to section 20ZA of the Landlord and Tenant Act 1985, the Tribunal grants dispensation from the consultation requirements of the Service Charges (Consultation Requirements) (Wales) Regulations 2004 for the purpose of the proposed works described in paragraph 5 below.**

- (2) In granting dispensation, the Tribunal makes no determination as to whether any service charge costs are payable or reasonable in respect of such works.**

REASONS FOR DECISION

Background

1. Prospect House, Cardiff ("the Development") is a development of several purpose built blocks of flats, which includes the two blocks the subject of the present application: Jones Point House and Flatholm House. Included with the application is a sample lease ("the Lease"), dated 9 July 2004, by which Bellway Homes Limited demised to the Lessee a flat for a term of 125 Years from 1 January 2023. Each lease owner holds one share in the Applicant, whose directors are presumably drawn from its members.
2. The Applicant is a party to the Lease by which it covenants to carry out the works and do the acts and things set out in the Sixth Schedule, being Maintenance Expenses in respect of an Estate Service Charge (Part A), Block Service Charge (Part B), and other costs set out in Part C. The Lessee covenants to pay to the Applicant the Lessee's Proportion (as set out in the Seventh Schedule) of such expenses by way of service charge. At all material times, Ringley Chartered Surveyors have been the Applicant's managing agents.
3. The application was served on the relevant lease owners in the two blocks, but none requested to be joined as parties. Directions were made on 29 September 2025, pursuant to which a witness statement dated 13 October 2025 was provided by Anastacia Theophanous of Ringley Law LLP, the solicitors acting for the Applicant, in support of the application.
4. The Applicant has indicated it is content for the matter to be dealt with by way of a paper determination. Having reviewed the papers the Tribunal considers that appropriate. A site inspection was not considered necessary.

The Works

5. The works in question are for the modernisation and refurbishment of the existing lifts in the two abovementioned blocks, costed as follows:
 - 5.1. Block F (Flatholm House) - £47,452.80 Inc. VAT
 - 5.2. Block J (Jones Point House) - £39,609.60 Inc. VAT

Consultation

6. Section 20 of the Landlord and Tenant Act 1985 and the Service Charges (Consultation Requirements) (Wales) Regulations 2004 contain provisions that require a consultation process to be followed in respect of, amongst other things, "qualifying works", that is, works in respect of which each tenant will have to contribute more than £250.00 by way of service charge. In a case such as

the present the details concerning, and timetable for, the relevant consultation process in respect of such works is contained in Part 2 of Schedule 4 to the 2004 Regulations, which include a provision that after service of the initial notice of intention the landlord must obtain at least two quotes for the work, irrespective of whether the tenants have nominated contractors. Failure to observe the consultation requirements will limit each tenant's liability to contribute to the cost of the qualifying works to the sum of £250.00, but under section 20ZA of the 1985 Act the Tribunal is empowered to dispense with all or any of the consultation requirements.

7. The Tribunal will proceed on the footing (without deciding the point) that the works described in paragraph 5 above will fall within the Maintenance Expenses provided for under the Lease, presumably Part B proportions relating to each of two blocks, and that on the basis of the above quotes the individual contributions by way of service charge will in each case exceed £250.00 so that the consultation requirements would be engaged.

The Application

8. The present application has been made seeking dispensation under section 20ZA in respect of the works mentioned in paragraph 5 above.
9. The Applicant relies on the following grounds:
 - 9.1. In Box 9 of the Application Form it is stated that the works are urgently required as the lifts in the two blocks are over 20 years old, at the end of their service life, and in need of refurbishment. Kone has been instructed to carry out the works but are experiencing difficulties in sourcing the necessary spare parts. The works are essential because the lifts frequently break down, and entrapment release times can take up to an hour. When out of service, the lifts can remain unusable for several days or even weeks, which causes significant hardship for residents, particularly those living on the upper floors.
 - 9.2. In Box 12 of the Application Form it is stated that the works are urgent for reasons of health and safety, as a result of which there has been limited consultation. The directors of the Applicant are all in agreement that the works need to be done as soon as possible.
 - 9.3. Paragraph 6 of Ms. Theophanous's statement states that there will be no prejudice to the leaseholders as a result of the proposed works. As outlined in the application, the works are essential to ensure the safety and convenience of residents within the two blocks. A number of residents—particularly elderly owners residing on the upper floors—are reliant on the timely completion of the works.

Determination

10. The leading decision concerning dispensation is that of the Supreme Court in *Daejan Investments v. Benson* [2013] UKSC 14. According to the guidelines in that case concerning how to approach the issue of dispensation, in the first instance it is for the tenants to identify how they will be prejudiced by a failure to follow the consultation provisions and for the landlord to then address those concerns and establish that it is reasonable to grant dispensation, on terms if appropriate.
11. Reliance is placed on the urgency of the works, but it should be borne in mind that urgency is not a necessary requirement for the grant of dispensation, nor of itself, sufficient to secure dispensation. It can be relevant to the exercise of the Tribunal's discretion, but prejudice is the primary concern, see: *RM Residential Ltd -v- Westacre Estates Limited & Bellrise Designs Limited* [2024] UKUT 56 (LC).
12. Given that no tenant has requested to be joined as a party, and there is no evidence of opposition to dispensation, the initial burden of establishing prejudice has not been met. Also, although silence does not amount to consent, the fact that this is an unopposed application is something to which the Tribunal can give suitable weight.
13. In addition, in considering its discretion to grant dispensation the Tribunal recognises that there are health and safety concerns that favour the works being carried out expeditiously.
14. It is important to recognise the limited ambit of the Tribunal's decision making in respect of dispensation. As noted above, in granting dispensation the Tribunal is not determining whether all or part of the cost of the works are recoverable under the service charge provisions, whether the works are the most appropriate solution, nor whether the cost is reasonable in amount. A tenant can in the future challenge such matters in respect of their liability to pay the service charge attributable to the works and if necessary, apply to the Tribunal to determine such matters under s. 27A of the 1985 Act.

Conclusion

15. In the light of the above, the Tribunal determines it appropriate to dispense with the consultation provisions in respect of the proposed works set out in paragraph 5 above, making it clear that it is making no determination as to whether any service charge costs are payable or reasonable in respect of the works.

Dated this 8th day of December 2025.

Colin Green (Chairman)