



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

Case Reference : **MAN/00CJ/LDC/2013/0029**

Property : **Blythwood North & South Block, Osborne Rd,
Jesmond, Newcastle NE2 2AZ**

Applicant : **Blythwood Managers North & South Ltd**
Applicant's representative: **Brannen & Partners**

Respondents : **Leaseholders of apartments at the Property**

Type of Application : **Landlord & Tenant Act 1985 – Section 20ZA**

Tribunal Members : **Laurence Bennett (Tribunal Judge)**
Jonathan Holbrook (Tribunal Judge)

Date of determination : **22 April 2014**

DECISION

Application

1. Blythswood Managers North & South Ltd on behalf of the Lessor of the Property applies to the Tribunal under Section 20ZA of Landlord and Tenant Act 1985 (the Act) for dispensation from the consultation requirements of Section 20 of the Act and the Service Charges (Consultation Requirements)(England) Regulations 2003 (SI 2003/1987) in respect of works to the lifts at the Property.
2. The Respondents are Leaseholders of the apartments at the Property.

Grounds and Submissions

3. The application was received by the Tribunal on 9 December 2013.
4. The Applicant is a Residents' Management Company carrying out management services in respect of the Property.
5. The Property is a purpose built complex of 40 residential flats constructed in 1975 with lifts to all floors.
6. On 13 January 2014, Judge Bennett made directions which were issued to the parties on that same date.
7. The Applicant stated in the application form that the work which has been carried out was "Urgent maintenance work carried out on the lifts in November 2013 due to a major fault being reported....."
8. Further information provided in response to directions gives details of the works completed, lift engineer's comments and the conclusion that the Directors of the Management Company felt there was no alternative action that could be taken for the safety of residents on site. "The work was deemed an emergency." Copy reports and correspondence were provided for the Tribunal.
9. The Tribunal did not receive submissions from a Respondent. Neither the Applicant nor a Respondent requested a hearing.
10. The Tribunal convened without the parties to make its determination on 22 April 2014.

Law

11. Section 18 of the Act defines "service charge" and "relevant costs".
12. Section 19 of the Act limits the amount payable by the lessees to the extent that the charges are reasonably incurred.
13. Section 20 of the Act states:-
"Limitation of service charges: consultation requirements
Where this Section applies to any qualifying works..... the relevant contributions of tenants are limited..... Unless the consultation requirements have either:-
 - a. complied with in relation to the works or
 - b. dispensed with in relation to the works by a Tribunal.

This Section applies to qualifying works, if relevant costs incurred on carrying out the works exceed an appropriate amount”.

14. “The appropriate amount” is defined by regulation 6 of The Service Charges (Consultation Requirements) (England) Regulations 2003 (the Regulations) as “..... an amount which results in the relevant contribution of any tenant being more than £250.00.”
15. Section 20ZA(1) of the Act states:-
"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."

Tribunal’s Conclusions with Reasons

16. We considered the written evidence accompanying the application.

Our conclusions are:-

17. It is not necessary for us to consider at this stage the extent of the service charges that result from the works payable under the terms of the Respondent’s leases. We note from the Applicant’s submissions that the costs have been funded from reserves. This does not preclude consideration of the charge in a future application to the Tribunal.
18. We accept from the nature of the work that it was necessary for it to commence without delay. The lack of repair clearly had potential to impact on the health, safety, utility and comfort of occupiers and visitors to the apartments at the Property.
19. Noting that the Tribunal has not received a comment or response from any Respondent, we have not identified a specific prejudice to them in the circumstances.
20. We conclude it reasonable in accordance with Section 20ZA(1) of the Act to dispense with the consultation requirements, specified in Section 20 and contained in Service Charges (Consultation Requirements)(England) Regulations 2003 (SI 2003/1987).
21. Nothing in this determination or order shall preclude consideration of whether the Applicant may recover by way of service charge from the Respondents any or all of the cost of the work undertaken or the costs of this application should a reference be received under Section 27A of the Landlord and Tenant Act 1985.

Order

22. The Applicant is retrospectively dispensed from complying with the consultation requirements in respect of the work specified in the application.