



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

Case Reference : **MAN/OOCY/LDC/2015/0027**

Property : **Flats 1 – 12 Heatherdene, Darcey Hey Lane, Halifax, West Yorkshire, HX2 7AE**

Applicant : **Darcey Hey Management Limited**

Representative : **Dickinson Harrison (RBM) Limited t/a Hunters Residential Block Management**

Respondents : **Various (see Annex)**

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

Tribunal Members : **Mr G. C. Freeman Judge
Mrs J Jacobs MRICS Expert Valuer Member**

Date of Decision : **20 January 2016**

DECISION

DECISION

The Tribunal determines that compliance with the consultation requirements of s 20 of the Act be dispensed with.

The application

1. On 26th October 2015, Hunters RBM as managing agents of the Property applied to the Tribunal under section 20ZA of the Landlord and Tenant Act 1985 (“the Act”) for retrospective dispensation from compliance with the consultation requirements contained in section 20 of the Act and in Part 2 of Schedule 4 of the Service Charges (Consultation Requirements)(England) Regulations 2003 (SI 2003/1987).
2. The Respondents to the application are the respective tenants at the Property. The Tribunal was supplied with a copy of the lease of Flat 7 Heatherdene by way of example of the leases on which the flats are held. The leases are stated to be in common form.
3. A copy of the Application was sent to each Respondent by the Tribunal.

The leases

4. Clause 3 of the Fourth Schedule of the lease contains a covenant by the Applicant to “maintain the Reserved Premises in good and substantial repair and condition ... making all necessary renewals and replacement as may be required thereto”
5. Clause 1 of the Fifth Schedule of the lease provides that the service charge for the Property shall be one twelfth of the costs to the Applicant of complying with the Company’s covenants in the lease.

The ground for the application

6. In a letter dated 3rd December 2015, it is stated that, general repairs were requested to be carried out to the gable end of the Property with the replacement of approximately 30 roof slates. One inspection of the roof following the erection of scaffolding it was reported that the mortar to the full length of the ridges had perished and the ridges could be lifter off without much difficulty. For reasons of health and safety it was imperative for the ridges to be rebedded and made safe before the weather worsened. The invoice total for the work dated 30 September 2015 is in the sum of £6286.80 inclusive of VAT.
7. Dispensation from compliance with section 20 is now sought retrospectively, following the decision to carry out the repairs recommended by the contractor.

Directions

8. On 26 November 2015 the Tribunal issued directions requesting that the Applicant provide a statement of case and that the Respondents state a case in reply. The Tribunal chair also declared that the matter should be dealt with on written submissions alone without an oral hearing unless within 14 days of the Directions any party requested a hearing. No such request was received. No statement of case was received from any Respondent

The decision

9. Having read all the documentation supplied the Tribunal directs of its own volition that the Applicant should be Darcey Hey Management Limited being the company named in the lease as responsible for the repair to the roof.
10. The Tribunal is satisfied, in accordance with section 20ZA(1) of the Landlord and Tenant Act 1985 that it is reasonable to dispense with the consultation requirements, specified by section 20 of that Act and by Part 2 of Schedule 4 of the Service Charges (Consultation Requirements)(England) Regulations 2003 (SI 2003/1987), in respect of the repairs carried out to the roof outlined above. The Tribunal accordingly determines that compliance with the consultation requirements is dispensed with.
10. This decision is limited to the dispensation of the consultation requirements and does not necessarily imply that the Tribunal accepts the cost of the repairs as being reasonable. Any party may make an application to the Tribunal under Section 27A of the Landlord & Tenant Act 1985 as to the payability of such charges.

Annex

List of Respondents

Mr B. Parker and Mrs C Parker
Mr S. Holroyd and Mrs M. Holroyd
Mrs Dawn Hubbard
Mr M. A. Whitaker and Mrs Whitaker
Mrs J. M. Swallow
Mr S. Thompson and Mrs P. Thompson
Mrs Dorothy Adams
The Craven family Trust 2013
Mr G. Habergham and Mrs P. Habergham
Mr H. S. Barrett and Mrs S. M. Barrett
Mr D.R, Cornwall and Miss R. S. Thompson
Mrs Anne Parker