



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

**Case Reference** : **MAN/00BR/LDC/2018/0012**

**Property** : **Textile Apartments  
10 Blackfriars Street  
Manchester  
M3 5BY**

**Applicant** : **Textile Apartments  
Management Company Limited**

**Representative** : **Revolution Property  
Management Limited**

**Respondents** : **The leaseholders of the  
Property (see Annex)**

**Representative** : **N/A**

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

**Tribunal Members** : **Judge J Holbrook  
Judge L Bennett**

**Date and venue of  
Hearing** : **Determined without a hearing**

**Date of  
Determination** : **25 May 2018**

**Date of Decision** : **31 May 2018**

**DECISION**

## DECISION

**Compliance with the consultation requirements of section 20 of the Landlord and Tenant Act 1985 is dispensed with in relation to works comprising the installation of new fire doors and the alteration of existing fire doors within the Property.**

## REASONS

### Background

1. On 6 April 2018, an application was made to the First-tier Tribunal (Property Chamber) (“the Tribunal”) under section 20ZA of the Landlord and Tenant Act 1985 (“the Act”) for a determination to dispense with the consultation requirements of section 20 of the Act. Those requirements (“the consultation requirements”) are set out in the Service Charges (Consultation Requirements) (England) Regulations 2003 (“the Regulations”).
2. The application was made by Textile Apartments Management Company Limited, the freehold owner of Textile Apartments, 10 Blackfriars Street, Manchester M3 5BY (“the Property”). The Respondents to the application are the long leaseholders of the 29 residential apartments within the Property, whose details are set out in the Annex hereto.
3. The only issue for the Tribunal to determine is whether or not it is reasonable to dispense with the consultation requirements.
4. The works in respect of which a dispensation is sought concern the installation of fire doors to enclose riser cupboards throughout the Property, together with the alteration of other doors to ensure they meet current regulations.
5. On 23 April 2018, the Tribunal issued directions and informed the parties that, unless the Tribunal was notified that any party required an oral hearing to be arranged, the application would be determined upon consideration of written submissions and documentary evidence only. No such notification was received, and the Tribunal accordingly convened in the absence of the parties on the date of this decision to determine the application. Written submissions and documentary evidence in support of the application were provided by the Applicant. No submissions were received from any of the Respondents.
6. The Tribunal did not inspect the Property.

## Grounds for the application

7. The Applicant's case is that there is an urgent need to carry out works relating to non-standard fire doors throughout the Property. These are doors enclosing riser cupboards containing items including electrical service media. Alterations are also required to other doors to ensure that they comply with current regulations. Although the need for these works was identified last November, there has since been a change of managing agent for the Property and the new agent considers that the works should be undertaken as soon as possible because they relate to fire safety.

## Law

8. Section 18 of the Act defines what is meant by "service charge". It also defines the expression "relevant costs" as:

*the costs or estimated costs incurred or to be incurred by or on behalf of the landlord, or a superior landlord, in connection with the matters for which the service charge is payable.*

9. Section 19 of the Act limits the amount of any relevant costs which may be included in a service charge to costs which are reasonably incurred, and section 20(1) provides:

*Where this section applies to any qualifying works ... the relevant contributions of tenants are limited ... unless the consultation requirements have been either—*

- (a) complied with in relation to the works ... or*
- (b) dispensed with in relation to the works ... by the appropriate tribunal.*

10. "Qualifying works" for this purpose are works on a building or any other premises (section 20ZA(2) of the Act), and section 20 applies to qualifying works if relevant costs incurred on carrying out the works exceed an amount which results in the relevant contribution of any tenant being more than £250.00 (section 20(3) of the Act and regulation 6 of the Regulations).

11. Section 20ZA(1) of the Act provides:

*Where an application is made to the appropriate 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.*

12. Reference should be made to the Regulations themselves for full details of the applicable consultation requirements. In outline, however, they require a landlord (or management company) to:

- give written notice of its intention to carry out qualifying works, inviting leaseholders to make observations and to nominate contractors from whom an estimate for carrying out the works should be sought;
- obtain estimates for carrying out the works, and supply leaseholders with a statement setting out, as regards at least two of those estimates, the amount specified as the estimated cost of the proposed works, together with a summary of any initial observations made by leaseholders;
- make all the estimates available for inspection; invite leaseholders to make observations about them; and then to have regard to those observations;
- give written notice to the leaseholders within 21 days of entering into a contract for the works explaining why the contract was awarded to the preferred bidder if that is not the person who submitted the lowest estimate.

## **Conclusions**

13. The Tribunal must decide whether it is reasonable for the works to go ahead without the Applicant first complying with the consultation requirements. Those requirements are intended to ensure a degree of transparency and accountability when a landlord (or management company) decides to undertake qualifying works – the requirements ensure that leaseholders have the opportunity to know about, and to comment on, decisions about major works before those decisions are taken. It is reasonable that the consultation requirements should be complied with unless there are good reasons for dispensing with all or any of them on the facts of a particular case.
14. It follows that, for it to be appropriate to dispense with the consultation requirements, there needs to be a good reason why the works cannot be delayed until the requirements have been complied with. The Tribunal must weigh the balance of prejudice between, on the one hand, the need for swift remedial action to ensure that occupiers of the Property are not placed at undue risk and, on the other hand, the legitimate interests of the leaseholders in being properly consulted before major works begin. It must consider whether this balance favours allowing the works to be undertaken immediately (without consultation), or whether it favours prior consultation in the usual way (with the inevitable delay in carrying out the works which that will require). The balance is likely to be tipped in favour of dispensation in a case in which there is an urgent need for remedial or preventative action, or where all the leaseholders consent to the grant of a dispensation.
15. In the present case, we accept that it is appropriate for works necessary to ensure that the Property and its occupiers are adequately protected

from fire should be carried out as soon as possible. We therefore find that it is reasonable for the works to proceed without delay and that dispensation should be granted. We note that a specification for the works has been drawn up by a specialist contractor and that the anticipated cost of carrying them out is approximately £30,000 (inclusive of VAT). We also note the Respondents have been provided with details of the works and have not raised any objections to dispensation being granted.

16. The fact that the Tribunal has granted dispensation from the consultation requirements should not be taken as an indication that we consider that the amount of the anticipated service charges resulting from the works is likely to be reasonable; or, indeed, that such charges will be payable by the Respondents. We make no findings in that regard.

## ANNEX

### List of the Respondents

Ms Mottley	Ms Aftab
Ms Moore	Mr Kneale
Mr Otter	Mrs Ward
Mrs Heler	Mr O'Mahony
Mr & Mrs Wylie	Mr & Mrs Phillips
Messrs Carl & G Metcalfe	
Mr Brown	
Mr & Mrs Munnery	
Mr & Mrs Cookson	
Mr Morfarah-Ghasri	
Sethi & Sons Ltd	
Mr & Ms Simpkin	
Ms Berry	
Mr & Mrs Gorton	
Mr & Mrs Pogliacomi	
Mrs Adams	
Mr Alderson	
Mr Mackay	
Mr Clarke	
Mr & Mrs Hall	