



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

Case Reference : **MAN/OOBN/LDC/2018/0037**

Property : **Regency House, 36-38 Whitworth Street
Manchester M1 3NR**

Applicants : **Mr Gareth Feeney
Residential Management Group**

Respondents : **Leaseholders at the Property**

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

Tribunal Members : **Laurence Bennett (Deputy Regional Judge)
Niall Walsh (Deputy Regional Valuer)**

Date of determination : **22 February 2019**

Date of Decision : **12 March 2019**

DECISION

Application

1. Mr Gareth Feeney of Residential Management Group 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 fire related works at the Property.
2. The Respondents are the individual Residential Leaseholders of flats at the Property.

Grounds and Submissions

3. The application was received by the Tribunal on 5 November 2018.
4. The Applicant is the Managing Agent appointed by the Lessor of the flats at the Property.
5. On 7 December 2018 the Tribunal made directions relating to service of the application and arrangements for a response. It was directed that in the absence of a request for an oral hearing the application would be determined upon the parties' written submissions without a hearing.
6. The Property is stated to be a converted block comprising 33 flats in Manchester city Centre with 2 floors of parking via a car lift.
7. The Applicant stated in the application form that "..... works were completed between 20th Special educational provision – 30th 2018 at a cost of £9,012 + VAT....." The Applicant specified fire related work.
8. Further information states that no consultation was carried out or proposed and that "Works were imposed by the Greater Manchester Fire and Rescue Service to make the building compliant from a fire risk perspective. An enforcement notice was issued by GMFRS giving a window of only 4 weeks to complete works. Multiple quotes were obtained and the works were completed by the contractor that provided the most competitive price."
9. The Applicant states that the works are urgent for the reasons set out above.
10. In accordance with directions the Applicant has provided copy standard Lease, a list of Leaseholders, copy correspondence to Leaseholders which includes an explanation of work, the Fire Safety Notice and Schedule of Work and copy quotations.
11. The Tribunal has not received submissions or an acknowledgement from a Respondent.
12. Neither the Applicant nor a Respondent requested a hearing.
13. The Tribunal convened without the parties to determine the application on 22 February 2019.

Law

14. Section 18 of the Act defines "service charge" and "relevant costs".

15. Section 19 of the Act limits the amount payable by the lessees to the extent that the charges are reasonably incurred.
16. 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 the First Tier TribunalThis Section applies to qualifying works, if relevant costs incurred on carrying out the works exceed an appropriate amount”.
17. “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.”
18. Section 20ZA(1) of the Act states:-
"Where an application is made to a 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

19. We considered the written evidence accompanying the application.

Our conclusions are:-
20. It is not necessary for us to consider the extent of the service charge payable by the Respondents that has resulted from the work. If disputed when demanded an application may be made to the Tribunal under Section 27 Landlord and Tenant Act 1985.
21. We find from the regulatory notices that it was necessary for work to commence as quickly as possible to comply with statutory requirements. It is clear that the work was assessed necessary by the Authorities because of the potential to severely impact on the health, safety, utility and comfort of occupiers and visitors to the flats and common parts at the Property.
22. Although formal consultation did not take place, we are satisfied that the Leaseholders have been informed of the position and a number of quotations for the work were obtained. We have not identified a specific prejudice to Leaseholders in the circumstances. Dispensation from consultation requirements does not imply that the resulting service charge is reasonable.
23. 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) whether prospective or retrospective.

24. 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

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

**L J Bennett
Tribunal Judge
22 February 2019**