FIRST - TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case Reference	**:**	**MAN/OOCZ/LDC/2020/0012**
Property	**:**	**Mill House, Textile Street, Dewsbury WF13 2EY**
Applicant	**:**	**Freehold Reversions Partnership Incorporated LP**
Respondents	**:**	**Long Leaseholders of Flats at the Property**
Type of Application	**:**	**Landlord & Tenant Act 1985 – Section 20ZA**
Tribunal Member	**:**	**Laurence Bennett (Tribunal Judge)**
Date of Decision	**:**	**4 June 2020**

DECISION

Application

1. Freehold Reversions Partnership Incorporated LP 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 work relating to roof leaks and gable at the Property.

2. The Respondents are Residential Leaseholders of flats at the Property.

Grounds and Submissions

3. The application was received by the Tribunal on 8 February 2020.

4. The Applicant is the Freeholder and Successor to the Lessor of the leases of the flats at the Property. The Respondents are the Lessees or Successors to the leases of the flats at the Property.

5. On 19 March 2020 Regional Surveyor Walsh made directions which provided that in the absence of a request for a hearing the application would be determined upon the parties' written submissions and evidence.

6. The Property is a converted building of 6 floors including ground comprising 41 flats.

7. The Applicant stated in the application form that the work is required to rectify leaks from the roof causing internal damage and pointing to the coping stones on the gable which has crumbled and requires removal and repointing.

8. Further information provides details of the work required and quotations received which include scaffolding.

9. The Applicant has provided a case statement and copies of communications with Leaseholders notifying intention to carry out the work and consultation arrangements. A letter dated 23 March 2020 includes: "Due to the severity of the work, we have made an application to the First Tier Tribunal Property Chamber for dispensation of all or any of the consultation requirements provided for by Section 20 of the Landlord & Tenant Act 1985."

10. The Applicant has provided copy Lease.

11. The Applicant has provided photographs illustrating the defects requiring rectification and damage caused and a statement of urgency noting the possibility of further mortar falling on to somebody below and mitigation of water damage. A Chartered Builder's report accompanies.

12. The Tribunal did not receive submissions from a Respondent nor a request for an oral hearing.

13. The Tribunal convened without the parties to make its determination on 4 June 2020.

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 ..... a leasehold valuation tribunal.
This 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 at this stage the extent of the service charges that would result from the works payable under the terms of the Respondents' leases. If and when such is demanded and if disputed, it may properly be the subject of a future application to the Tribunal.

21. We accept from the details of the damage suffered, work proposed and the obvious consequences of further water ingress that it is necessary for repairs/replacement to commence without delay. The lack of repair has potential to impact on the health, safety, utility and comfort of occupiers and visitors to the flats at the Property.

22. Although no formal consultation has been completed nor do we have the exact information given to the Respondents, we have not identified a specific prejudice to them 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).

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
4 June 2020