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

Case Reference : **MAN/00BN/LDC/2013/0023**

Property : **Flats 1-18, 15-17 Piccadilly, Manchester M1 1LT**

Applicant : **Guinness Northern Counties**

Respondent : **Various (see attached list)**

Type of Application : **Section 20ZA Landlord and Tenant Act 1985 -
application for dispensation from consultation
requirements**

Tribunal Member : **Mrs E Thornton-Firkin
Mr L J Bennett**

Date : **8 September 2013**

DECISION

Application

1. The Applicant 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 in the Service Charges (Consultation Requirements)(England) Regulations 2003 (SI 2003/1987) in respect of all the costs of scaffolding to 15 – 17 Piccadilly, Manchester (the Property) to enable roof repairs and external decorations to be carried out.
2. The Respondents are individual Leaseholders of Apartments at the Property.

Grounds and Submissions

3. The application was received by the Tribunal on 29 July 2013. The Respondents, leaseholders of the apartments, are listed in an annex to the application.
4. On 30 July 2013 a Chairman of the Tribunal, made directions which provided that in the absence of a request by any party for an oral hearing the application would be determined without a hearing. Neither the Applicant nor a Respondent requested a hearing.
5. The Property is described in the application form as “18 leasehold apartments arranged over four floors with commercial premises converted to residential circa 2000. The premises are situated above commercial premises trading at basement, ground and first floor levels”.
6. The Applicant stated in the application form the works required and the reason for the urgency as “we wish to commence the works before the Christmas moratorium on scaffold in the City centre imposed by Manchester Council. The property forms a landlocked site and it is impossible to determine the extent of the works required or obtain meaningful quotations without the erection of a substantial scaffold, which will need to oversail the rear high level roofs of the adjoining premises and be further supported on a low level flat roof, also outside our ownership The cost of the scaffold alone is likely to exceed the scheme consultation trigger by a substantial margin. Only when this is in place will we be able to quantify and get accurate quotations for the cost of the works required to the multi pitched roof coverings and high level repairs on the external envelope of our building. We therefore seek the Tribunal’s consent to dispose with the statutory consultation requirements for both elements of this project; that is erection of scaffolding and the cost of repairs, in order to minimise the scaffolding hire charges as far as possible for our leaseholders”. The applicant withdrew their application for dispensation for the roof repairs in their statement of case and limited it to the cost of the scaffolding.
7. Further information provided with the application and statement of case included two roof reports, schedule of works and a comprehensive photographic record of the property.

8. None of the Respondents replied to the Tribunal's directions that they may submit to the Tribunal any written representations concerning the application.
9. Neither the Applicant nor a Respondent Leaseholder requested a hearing. The Tribunal convened without the parties to make its determination on 8 September 2013.

Law

10. Section 18 of the Act defines "service charge" and "relevant costs".
11. Section 19 of the Act limits the amount payable by the lessees to the extent that the charges are reasonably incurred.
12. 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".

13. "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."
14. Section 20ZA(1) of the Act states:-
"Where an application is made to a leasehold valuation 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

15. The Tribunal considered the written evidence accompanying the application.
Our conclusions are:-

16. We accept from the nature of the works to both the roof and the external decorations that it is necessary for them to commence without delay in order to avoid the Christmas period.
17. 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), in respect of the hiring of scaffolding to carry out the works to the building.
18. Nothing in this determination or order shall preclude consideration of whether the Applicant may recover by way of service charge from the Respondent Leaseholders any or all of the cost of the works undertaken including the scaffolding or the costs of this application should a reference be received by the Tribunal under Section 27A of the Landlord and Tenant Act 1985.

Order

19. The Applicant is dispensed from complying with the consultation requirements with the Respondent Leaseholders in respect of the costs of the scaffolding to be erected to carry out works to 15 – 17 Piccadilly.

List of Respondents

Respondent	Interest
Mr R Stewart	Flat 1
Mrs M O'Reilly	Flat 2
Miss F Tuz-Zohra	Flat 3
Miss M Cole	Flat 4
Mr S Taylor	Flat 5
Miss L Turner	Flat 6
Mr J Neale & Ms Shelley	Flat 7
Mr M Cavagin	Flat 8
Mr A Gray	Flat 9
Mr R Jackson	Flat 10
Mr S Harris	Flat 11
Ms A Maimoo	Flat 12
Mr T Rawlins	Flat 13
Mr R Brady & Ms G Skelly	Flat 14
Mr Oliver	Flat 15
Miss E Sarath	Flat 16
Mr & Mrs S Taylor	Flat 17
Mr W Jones	Flat 18