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

Case Reference : **MAN/OOBQ/LDC/2014/0025**

Property : **Nowell Court, Middleton
Rochdale M24 6EY**

Applicant : **Nowell Court Management Limited**
Represented by : **Regalty Estates Limited**

Respondents : **Leaseholders of apartments at the Property**

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

Tribunal Members : **Laurence Bennett (Tribunal Judge)**
Jonathan Holbrook (Tribunal Judge)

Date of Decision : **15 October 2015**

DECISION

Application

1. Nowell Court Management Limited 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 works to the glass screens and canopies over balconies and walkways at the Property.
2. The Respondents are Leaseholders of apartments at the Property.

Grounds and Submissions

3. The application was received by the Tribunal on 25 September 2015.
4. The Applicant is the Management Company, a party to the Leases of the apartments at the Property.
5. On 29 September 2015 Judge Holbrook made directions which provided that in the absence of a request for a hearing the application would be determined upon the parties' written submissions.
6. The Property is a purpose built block comprising 62 apartments constructed around 1977.
7. The Applicant stated in the application form that the work is required to replace warped patent glazing to upper deck canopies including glazing bars and displaced eaves and gutters. Scaffolding will be required.
8. Further information provided gives details of the poor condition of the glazing and previous works to remove an immediate threat of falling glass screens and the consequence that now voids have left landing walkways exposed giving rise to a slip hazard to the primarily elderly residents.
9. The Applicant has written to Leaseholders. A letter dated 23 September 2015 included "In the spirit of the consultation requirements we request that you nominate a contractor for us to approach" It states that 3 contractors have been approached.
10. The Applicant has included a report dated July 2015 by Chartered Building Surveyors in connection with the repairs. This contains recommendations which are reflected in the work now proposed.
11. The Tribunal did not receive submissions from a Respondent. Neither the Applicant nor a Respondent requested a hearing.
12. The Tribunal convened without the parties to make its determination on 16 October 2015.

Law

13. Section 18 of the Act defines "service charge" and "relevant costs".
14. Section 19 of the Act limits the amount payable by the lessees to the extent that the charges are reasonably incurred.
15. 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 Tribunal.This Section applies to qualifying works, if relevant costs incurred on carrying out the works exceed an appropriate amount".
16. "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."
17. 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

18. We considered the written evidence accompanying the application.

Our conclusions are:-
19. 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 Respondent's leases. If and when such is demanded and if disputed, it may properly be the subject of a future application to the Tribunal.
20. We accept from the details of the work proposed and the consequences of the existing voids that it is necessary for it to commence without delay. The lack of repair and replacement has potential to impact on the health, safety, utility and comfort of occupiers and visitors to the apartments at the Property. This is particularly the case during the winter season.
21. We note that Leaseholders have been informed and given an opportunity to respond to the proposals. This is not a formal consultation as required. However, bearing in mind the urgency of the work necessary, we have not identified an overbearing prejudice to them in the circumstances. Dispensation from consultation requirements does not imply that the resulting service charge is reasonable.

22. Balancing the urgency of the work and the consequences of delay against the protection afforded to Leaseholders by the prescribed consultation requirements, 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).
23. 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

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