



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

**Case Reference** : **MAN/00BN/LDC/2021/0032**

**Property** : **Lantern Court, 106, Hall Lane, Baguley,  
Manchester M23 1DJ**

**Applicant** : **Lantern Court (Baguley) Management  
Company Limited**

**Applicant's representative** : **Scanlans Property Management LLP**

**Respondents** : **The long leaseholders of the individual  
flats (see annex)**

**Type of Application** : **Application under Section 20ZA Landlord  
and Tenant Act 1985 (to dispense with  
Section 20 consultation)**

**Tribunal Members** : **Judge J R Rimmer  
Mr H Lewis**

**Date of Determination** : **30<sup>th</sup> November 2021**

**Date of Decision** : **2<sup>nd</sup> December 2021**

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**DECISION**

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**Order :**           **The dispensation sought by the Applicant from compliance with Section 20 Landlord and Tenant Act 1985 is granted for the reasons set out herein**

### **Application and background**

- 1       This is an application under Section 20ZA Landlord and Tenant Act 1985 (“the Act”) seeking a dispensation from the requirement to fulfil the consultation requirements of Section 20 Landlord and Tenant Act 1985 (further clarified by the Service Charges (Consultation Requirements) (England) Regulations 2003) in relation to what are termed “qualifying works” within that section.
- 2       The works in question are the installation of a temporary fire alarm system and carry out such ventilation and compartmentalisation works to the common parts of the building as are required to remedy a serious fire hazard found by Greater Manchester Combined Authority and made the subject of an enforcement notice to ensure compliance with a Fire Safety Order. Such was the concern of the authority that without the immediate provision of the alarm system the property would have faced immediate closure.
- 3       The Applicant has taken the view that seriousness of the situation was such as to require immediate work to be carried out without resort to the consultation process set out by section 20 of the Act. It does appear that notwithstanding the application a consultation process has been undertaken to run alongside the application under consideration.
- 4       One formal objection from to the application has been received from the joint leaseholders of Flat 28, Lantern Court, Mr and Mrs A G Stevenson. It is not clear from the paperwork provided by the Applicant the extent to which any of the other leaseholders had engaged with the consultation process, although there are documents supplied by the Applicant dealing with queries as to the work required, with particular reference to remedies that might be available against the developer responsible for the construction of the building early this century.
- 5       Following receipt of the application by the Tribunal directions for the further conduct of the matter were given by the Regional Surveyor of the Tribunal on 21st October 2021.
- 6       The Applicant’s submissions (via their managing agents) were made to the Tribunal in the course of the Application and supported this with an extensive fire risk assessment provided to the Applicant, and then the breakdown of the proposed remedial works by the proposed contractor. The emergency alarm works and continuing cost were supported by relevant invoices.
- 7       Mr and Mrs Stevenson set out their concerns concisely in submissions of 8<sup>th</sup> and 11<sup>th</sup> November 2021, the latter following further information provided by the Applicant.

- 8 Their concerns related not to the likely cost of the works, they were accepted as being necessary and required to be speedily carried out. They were seeking to explore why the fire risk assessment dated 9<sup>th</sup> September had not been acted upon more quickly and it had taken until the meeting with the greater Manchester Fire and Rescue Service (GMFRS) on 19<sup>th</sup> March 2021 for action to be taken, and that after the GMFRS had taken a more serious view of identified deficiencies than had SPL Fire Engineering on behalf of the managing agents.
- 9 They also set out in their submission a clear picture of the timeline they seek to explore, with a section 20 consultation process starting on 21<sup>st</sup> April 2021.
- 10 There was nothing in the earlier submissions to the Tribunal that provided any clarification as to how it had been found necessary to commission the September 2020 fire risk assessment other than conceivably compliance with the requirement for annual reporting as advised by the Regulatory Reform (Fire Safety) Order 2005. The previous report being 9<sup>th</sup> September 2019.
- 11 In a final submission to the Tribunal Scanlans outlined the reasons for the assessment taking place and the issues that were raised and which were considered to require some further investigation, particularly as the providers of the report did not consider issues identified as requiring the same immediate action as was subsequently determined by the fire service.
- 12 Whist awaiting progress of the application to the Tribunal and parallel consultation process that had been put in place an enhanced fire alarm system was installed. As soon as two quotations for the required work were received the Applicant set about the process of instructing the provider of the less expensive quotation to start work.
- 13 It is understood that work has now been suspended unless and until sufficient leaseholders' contributions are forthcoming to fund further work.

## **The Law**

- 14 Section 18 Landlord and Tenant Act 1985 defines both a “service charge” and also “relevant costs” in relation to such charges whilst Section 19 of the Act limits the amount of those costs that are included in such charges to those which are reasonably incurred in respect of work which is of a reasonable standard.
- 15 Section 20 of the Act then proceeds to limit the amount of such charges that may be recoverable for what are known as “qualifying works” unless a consultation process has been complied with. By Section 20ZA of the Act qualifying works are any works to the building or other premises to which the service charge applies and the relevant costs would require a contribution from each tenant of more than £250.00.

16 Section 20ZA(1) particularly provides that:

“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.”

17 The consultation process envisages a multi-stage approach by requiring:

- (1) A notice of intention to carry out qualifying works
- (2) The right of the leaseholders to nominate a contractor
- (3) The need for two, or more, estimates
- (4) The need to give reasons for the eventual choice of contractor.

It is in respect only of the last of these that the Applicant seeks its exemption.

### **Determination**

18 The Tribunal determined this matter without a hearing on 24<sup>th</sup> November 2021. The Tribunal has power under Section 20ZA Landlord and Tenant Act 1985 to determine that on an application to dispense with some or all of the consultation requirements under Section 20 it is satisfied that it is reasonable to dispense with those requirements. The Tribunal has done so notwithstanding the observations of Mr and Mrs Stevenson and the timescale that they set out in its submissions, in view of the seriousness of the concerns of GMFRS and noting the point made in the final element of their second submission that the time taken to set the process moving may well have contributed to the difficulty some leaseholders may have experienced in raising funds..

19 On the evidence available to it the Tribunal is able to make the following determinations:

- (1) There is a clear and immediate risk to the health and safety of occupants, as assessed by the local fire service.
- (2) Work was required to install a suitable temporary alarm system.
- (3) Similarly, the ventilation and compartmentalisation works were also considered and assessed as requiring speedy action.
- (4) There is nothing to suggest that, on evidence currently available, there is a significant risk of any financial prejudice to the leaseholders over and above the inevitable costs of remedial works.
- (5) It is possible Applicant may have been able to deal with the matter in a different way earlier, but this is certainly not clear and the Applicant provides a cogent explanation as to why the process proceeded at a slower pace from September 2020 to March 2021.

- (6) The work would have been required in any event and the Applicant prudently sought to use both the dispensation procedure and a parallel consultation process to move the matter forward in respect of the works after the necessary immediate installation of the enhanced alarm system.
- (7) Although Mr and Mrs Stevenson make a valid point about the process denying them the opportunity to find out all that they could as to how the situation had arisen, the Tribunal believes the pressing urgency of maintaining the integrity of the building as residential accommodation was such that the objection is overborne and that the application was appropriate and justified.
- 20 Even though the Tribunal has determined that it is appropriate to dispense with compliance with the consultation requirements this does not prejudice the future rights of any leaseholder to challenge the reasonableness of any costs incurred in respect of the relevant works under Section 27A Landlord and Tenant Act 1985 relating to the service charges for the year(s) in question.
- 21 In the circumstances the Tribunal is satisfied that it is reasonable to dispense with the requirements to comply with section 20 Landlord and Tenant Act 1985 and the Service Charges (Consultation Requirements)(England) Regulations 2003.

J R Rimmer  
Tribunal Judge  
2<sup>nd</sup> December 2021

## Annex A

### Respondent Leaseholders

Andmarc (Church Hill) Limited

Mr Bradshaw

Mr & Mrs Martucci

Ms Robinson

Mr & Mrs Beaburn

Mr Wilkinson

Mr Chumber

Mr Ornia-Blanco

Ms Yuan & Mr Chen

Ms Monzer & Mr Hassoun

Mr Beamish

Mr Fitzpatrick

Mr Aljafairi

Mr PENCHION

Mr & Mrs Floyd

Mr Chaudri

Ms Drury

Mr Kwasniewski & Ms Evans

Mr Tahir

AT & C Properties Ltd

Mr & Mrs Abdoun Machaal

Mr Bradley

Ms Risk

Mr Reza & Mr Moasoumeh

Ms Pickles

Mr Stevenson

Mr Ransome

Mr Poland

Mr Duckworth & Mr Politt

Mr Cain

Mr Uzoho

Ms Rowland

Mr & Mrs Eagle

Mr Derbyshire