



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

Case Reference : **MAN/OODA/LDC/2021/0013**

Property : **St George's Building, Great George Street,
Leeds Ls1 3DL**

Applicant : **Mr Lionel Levine**
Representative : **J H Watson Property Management Ltd**

Respondents : **Residential Leaseholders at the Property**

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

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

Date of determination : **12 July 2021**

Date of Decision : **13 July 2021**

DECISION

Application

1. Mr Lionel Levine 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 replacement of cladding and balcony decking with non-combustible material at St George's Building, Great George Street, Leeds LS1 3DL (the Property).
2. The Respondents are Leaseholders of apartments at the Property.

Grounds and Submissions

3. The application is dated 25 March 2021.
4. The Applicant is the Freeholder and Successor to the Lessor of the Leases of the apartments at the Property.
5. On 23 April 2021 Judge J Holbrook made directions requiring service of the documents by the Applicant on each Respondent. The directions 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 13 storey building comprising 93 residential apartments.
7. The Applicant explains that: "The replacement of cladding and balcony decking is necessary to comply with current safety requirements."
8. The Applicant's statement of case states that: "In order to comply with the Homes England's prescribed timeframe for the costs to be submitted and work started on-site, we chose to use Homes England's robust YorBuild Framework route..... There are limited contractors available to carry out this specialist work so it would not have been practical to go out to tender, the Framework route provides for cost consultants and quantity surveyors that ensure the project costs are reasonable."
9. The Applicant states that all Leaseholders have been made aware that work is required and that an application has been made to the British Safety Fund for the work although balcony work will not be covered. A notice of intention has been sent to all Leaseholders.
10. One quotation has been received but dispensation is sought: "As on advice from the BSF we have used a Framework option with an approved Government contractor"
11. In response to directions the Applicant has provided a statement of case, copy correspondence to Leaseholders, a sample Lease and within its case statement reasons for urgency.
12. The Tribunal did not receive submissions from a Respondent Leaseholder. Neither the Applicant nor a Respondent requested a hearing. It is noted a single Respondent completed a response proforma.
13. The Tribunal convened without the parties to make its determination on 12 July 2021.

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 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 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.
21. We accept from the details provided that installation work is urgent. There is a continuing risk which has an obvious and significant potential to impact on the health and safety of occupiers and visitors to the apartments at the Property.
22. Although formal consultation has not taken place, we accept that Leaseholders are aware of the underlying issue and this application. Balancing the need for urgent action against dispensing with statutory requirements devised to protect service charge paying Leaseholders, we conclude the urgency outweighs any identified prejudice. We understand there may be a potential saving in Waking Watch costs although that is not determinative. 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.

Laurence J Bennett
Tribunal Judge
12 July 2021