

10328



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

Case Reference : **MAN/OOFF/LDC/2014/0016**
Property : **21 Priory Street, York YO1 6ET**
Applicant : **Ground Rents UK Limited**
Represented by : **Town & City Management 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 determination : **1 December 2014**

DECISION

Application

1. Town & City Management Limited applies on behalf of Ground Rents UK Limited 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 eaves and gutters to the Property.
2. The Respondents are Leaseholders of the apartments at the Property.

Grounds and Submissions

3. The application was received by the Tribunal on 7 November 2014.
4. On 13 November 2014, Judge Bennett made directions which provided that in the absence of a request for a hearing the application would be determined upon the parties' written submissions.
5. The Property is a 3 storey block comprising 7 apartments.
6. The Applicant sent within the application form a report and photographs that identify that the work to be carried out relates to the decorative brickwork and gutter supports which have corroded and hanging away from the house wall.
7. Further information provided states that the work is urgent because of the risk of a fall to the ground and road and walkways have been blocked off to minimise danger from falling debris.
8. The Applicant states that the Respondents have been made aware of the problem but no consultation has taken place.
9. The Tribunal did not receive submissions from a Respondent. Neither the Applicant nor a Respondent requested a hearing.
10. The Tribunal convened without the parties to make its determination on 1 December 2014.

Law

11. Section 18 of the Act defines "service charge" and "relevant costs".
12. Section 19 of the Act limits the amount payable by the lessees to the extent that the charges are reasonably incurred.
13. 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".

14. "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."
15. 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

16. We considered the written evidence accompanying the application.

Our conclusions are:-
17. 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.
18. We accept from the nature of the work that it is necessary for it to commence without delay because of the obvious risk which has potential to impact on the health, safety, utility and comfort of occupiers, visitors to the apartments at the Property and members of the public passing by.
19. We conclude it reasonable, particularly because of the urgency 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).
20. 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

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