



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

Case Reference : **MAN/OODA/LDC/2019/0014**

Property : **Quay One, Neptune Street, Leeds LS9 8DS**

Applicant : **Quay One (Leeds) Management Company Ltd**
Applicant's Representative : **Smith Property Management**

Respondents : **Leaseholders at the Property**

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

Tribunal Members : **L Bennett (Tribunal Judge)**
N Walsh (Deputy Regional Valuer)

Date of determination : **3 June 2019**

Date of Decision : **6 June 2019**

DECISION

Application

1. Mr Ian Nixon, Director of Quay One (Leeds) Management Company 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 fire related work at the Property.
2. The Respondents are the individual Residential Leaseholders of flats at the Property.

Grounds and Submissions

3. The application was received by the Tribunal on 25 March 2019.
4. The Applicant is the Managing Company, a Party to the Lease of the flats at the Property.
5. On 16 April 2019 the Tribunal made directions relating to service of the application and arrangements for a response. It was directed that in the absence of a request for an oral hearing the application would be determined upon the parties' written submissions without a hearing.
6. The Property is stated to be a purpose built block comprising 35 flats.
7. The Applicant stated in the application form that the works required are "replacement of current exterior cladding with Class A fire retardant cladding. Cost is £87,500 payable on prorate basis from all leaseholders based on service charge %. Works to be instructed and commence as soon as monies have been collected."
8. Further information states that no consultation has been carried out although there was approval by the Directors at the annual general meeting of the Applicants on 6 March 2019.
9. The Applicant states that the works are urgent as there is pressure for the matter to be resolved as the Property is the only block over 18 metres Leeds without a plan for the cladding. It is further stated that unless the work is done, Leeds Council will take enforcement action at a cost that will not be controlled by the Applicant. It is noted that until the work is completed the building insurance premium is an extra £384 per week.
10. In accordance with directions the Applicant has provided copy standard Lease, a list of Leaseholders, a statement of case including minutes of the AGM and explanation of the work.
11. The Tribunal received a single submission from a Respondent, Leaseholders of flat 403. This is supportive and notes the work is a matter of urgency.
12. Neither the Applicant nor a Respondent requested a hearing.
13. The Tribunal convened without the parties to determine the application on 3 June 2019.

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 leasehold valuation 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 the extent of the service charge payable by the Respondents that will result. If disputed when demanded an application may be made to the Tribunal under Section 27 Landlord and Tenant Act 1985.
21. We find from the evidence provided that it is necessary for work to commence as quickly as possible to comply with requirements. It is clear that the work is necessary because of the potential to severely impact on the health, safety, utility and comfort of occupiers and visitors to the flats and common parts at the Property. Although we were not provided with correspondence or formal notices from the Regulatory Authorities, we accept that they have indicated it must be completed.
22. Although formal consultation did not take place, we are satisfied that the Leaseholders have been informed of the position at an AGM and quotations have been obtained. We have not identified a specific prejudice to Leaseholders in the circumstances. 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) whether prospective or retrospective.
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.

L J Bennett
Tribunal Judge
3 June 2019