



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

**Case Reference** : **MAN/OOBY/LDC/2021/0006**

**Property** : **Cable House, Cheapside, Liverpool L2 2SX**

**Applicant** : **Tuscola (110) Limited**

**Representative** : **Epworth PM Limited**

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

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

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

**Date of determination** : **16 April 2021**

**Date of Decision** : **19 April 2021**

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**DECISION**

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## **Application**

1. Tuscola (110) 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 installation of fire detection and fire alarm at Cable House, Cheapside, Liverpool L2 2SX (the Property).
2. The Respondents are Leaseholders of apartments at the Property.

## **Grounds and Submissions**

3. The application was received by the Tribunal on 1 February 2021.
4. The Applicant is the Freeholder and Successor to the Lessor of the Leases of the apartments at the Property.
5. On 2 February 2021 Regional Surveyor Walsh 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 converted office block comprising 51 apartments with lower and ground floor car parks.
7. The Applicant explains that the Property contains "A multitude of combustible wooden cladding on the exterior of the development as well as other areas of the external wall systems build-up containing combustible materials." An investigation led to an EWS1 Form Rating of B2.
8. The Applicant's statement of case records that fire enforcement notices were served by Merseyside Fire & Rescue Authority following a Fire Safety Audit on 15 February 2021.
9. The Applicant states that all Leaseholders have received information advising of the enforcement notice and work required. Information provided by the Applicant notes the requirement to support a change of fire strategy from "Stay Put" to a temporary change to "Simultaneous Evacuation."
10. Quotations have been received amounting to approximately £84,000 and £95,000 + VAT. Comments are made about the risk and the urgency.
11. In response to directions the Applicant has provided a statement of case, copy correspondence to Leaseholders, copies of the Enforcement Notices, sample Leases, the quotations and reasoning relating to urgency and consequences.
12. The Tribunal did not receive submissions from a Respondent Leaseholder. Neither the Applicant nor a Respondent requested a hearing.
13. The Tribunal convened without the parties to make its determination on 16 April 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. The immediate 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 note a potential saving in Waking Watch costs. 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**  
**16 April 2021**