



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

Case Reference : **MAN/00BN/LDC/2021/0081**

Property : **The Green Building, 19 Wakefield Street,
Manchester M1 5NP**

Applicant : **Macintosh Village (Management) Limited**

Representative : **Zenith Property Management**

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

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

Tribunal Member : **Judge L Bennett**

Date of determination : **6 July 2022**

Date of Decision : **26 July 2022**

DECISION

Application

1. Macintosh Village (Management) 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 repairs to the communal heating and hot water system(the Works) carried out at The Green Building, 19 Wakefield Street, Manchester M1 5NP (the Property).
2. The Respondents are Leaseholders of apartments at the Property and listed at the Annex to this decision.

Grounds and Submissions

3. The application is dated 3 November 2021.
4. The Applicant is the resident management company with responsibility for the building.
5. The Property is a purpose-built block of flats, which was constructed in 2003. It shares the site with a nursery building. Which occupies the larger footprint of the ground and first floors of the development. The Green Building occupies the smaller footprint tower, which extends above with 9 residential floors containing 35 apartments. It is constructed of reinforced concrete with concrete floor slabs and is designed around a central atrium which extends the full height of the building. It is energy efficient and features a solar thermal water heating system, computer controlled windows at the head of the atrium and a roof mounted wind turbine.
6. On 14 April 2022 Deputy Regional Judge Bennett made directions requiring the service of documents by the Applicant on each of the Respondents. The directions provided that in the absence of a request for a hearing the application would be determined upon the parties' written submissions.
7. In response to directions the Applicant has provided a statement of case with supporting documents.
8. The Applicant's statement of case sets out a chronology of events leading up to the application for dispensation.
9. The deterioration of the containment casing to the 3 domestic hot water cylinders, which provide all hot water requirements to the residential apartments, was discovered by one of the property managers on 26 October 2021. This was reported immediately to Heating Doctor Maintenance, who has been maintaining the communal heating and hot water systems for over 10 years. The contractor attended that same day.
10. Heating Doctor Maintenance reported that the hot water cylinders were showing signs of deterioration, particularly where they have severely rusted at the base of the cylinder walls, adjoining their base. They advised that the cylinders needed to be replaced because of the potential to burst and create a massive leak. Water was already running down the walls of the stairway. If the cylinders burst a huge amount of water would cascade through the building to the adjacent lift shaft and

escape staircase, down service risers and into residential properties below the plant room.

11. Heating Doctor Maintenance submitted a quotation in relation to the proposed works dated 3 November 2021. The total cost being £25,032 inclusive of VAT. The Applicant has indicated that there is more than sufficient funding within the sinking fund to pay for the works.
12. The Tribunal did not receive any 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 6 July 2022.

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. I have determined this matter following a consideration of the Applicant’s case but without holding a hearing. Rule 31 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 permits a case to be dealt with in this manner provided that the parties give their consent (or do not object when a paper determination is proposed). In this case, the Applicant has given its consent and the Tribunal has not heard from a Respondent in response to the application. Moreover, having reviewed the case papers, I am satisfied that this matter is indeed suitable to be determined without a hearing. Determining this matter does not require me to decide disputed questions of fact.

20. It is not necessary to consider at this stage the extent of any service charges that may result from the works payable under the terms of the Respondents' leases. If and when such is demanded, and if disputed, it may properly be the subject of a future application to the Tribunal.
21. I accept from the details provided by the Applicant the urgent nature of the work. I further accept that the property manager acted swiftly when the issue was discovered; that the contactor who maintains the communal heating and hot water system is on hand to complete the work; that should there be any delay there is a high risk of the cylinders bursting causing a high level of damage to the building. I acknowledge that Zenith Property Management wrote to all leaseholders on 4 November 2021, regarding the issue with the hot water cylinders.
22. Balancing the need for urgent action against dispensing with statutory requirements devised to protect service charge paying Leaseholders, I conclude the urgency outweighs any identified prejudice. Dispensation from consultation requirements does not imply that any resulting service charge is reasonable.
23. I 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
6 July 2022

Annex

Leaseholders

Ground/First/Second	Aaron Mellor
Apartment 1	Dr. J Edeki
Apartment 2	Dr. Kulraj Achal
Apartment 3	Chee Ho Chan
Apartment 4	Mr Sarinder Dalal
Apartment 5	Ms Judith Holding
Apartment 6	Mr B Adewole
Apartment 7	Patrick Morgan
Apartment 8	Tanveer, Nasier, Saghir & Nadeem Ahmed
Apartment 9	Mr & Mrs Bailey
Apartment 10	Mr Y Patel
Apartment 11	Mr & Mrs Kumar
Apartment 12	Christopher & Anthony Addinsell
Apartment 14	Abbas & Zeinab Ossaili and Mervat Osman
Apartment 15	Liza & Nina Lewis
Apartment 16	Mrs Marion Harris
Apartment 17	Jonathan Bates
Apartment 18	Joanne Smithson
Apartment 19	Mr KN Rahemtulla
Apartment 20	Helen Brooks
Apartment 21	Mr Noseda
Apartment 22	Independent Trustee Company Ltd
Apartment 23	Leon Luftig
Apartment 24	Mr R Goodburn
Apartment 25	Chun Pong Woo & Serena Tong
Apartment 26	Ingrid Fichardt

Apartment 27	Mr K N Rahemtulla
Apartment 28	Deconcourt Hotels
Apartment 29	John Long
Apartment 30	Mark Slevin
Apartment 31	Mr P Lalani
Apartment 32	Mr MR Smith
Apartment 33	Benjamin Moorhouse & Sian Higham