



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

Case Reference : **MAN/00BU/LDC/2021/0068**

Property : **Timperley Flats, 63-71 Stockport Road,
Altrincham WA15 7LH**

Applicant : **Timperley Flats (Services) Limited**

Representative : **HML Group**

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 : **20 July 2022**

DECISION

Application

1. Timperley Flats (Services) 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 soffit rot investigation/superficial repair (the Works) carried out at Timperley Flats, 63-71 Stockport Road, Altrincham WA15 7LH (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 was received by the Tribunal on 19 October 2021.
4. The Applicant is the resident management company with responsibility for the building.
5. Timperley Flats are 5 terraced houses constructed c1880, converted in the 1970s to 15 units split between the houses.
6. On 11 February 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. It was reported that a timber and fascia soffit had fallen from the building causing serious health and safety concerns to the residents and visitors to the Property. The management company raised this with its agent HML. HML instructed Monaghan Property Services Limited, a contactor familiar with the site, to attend and review the damage and the potential risks of more fascia boards falling and posing further danger to residents and visitors.
10. Following their investigation, Monaghan submitted a quotation dated 15 October 2021 to HML in relation to the proposed works. The total estimated cost amounted to £2,844 inclusive of VAT.
11. HML passed the quote to the directors of the management company for approval. The directors were advised that due to the costs a Section 20 Consultation exercise would be required. However, because of the urgent nature of the works, it was decided that the best course of action would be to seek dispensation from the First-tier Tribunal. On 3 November 2021, HML issued a Section 20 Notice of Intention to all leaseholders. The works were carried out shortly afterwards.
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. There was clearly a potential further risk of more facia boards falling from height posing a danger and affecting the health, safety and welfare of the residents and visitors. There would likely be an escalation of costs as winter approached as

well as further damage due to the weather. The rotting timber could also cause more damage internally to the roof area and possibly the top floor property.

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 note from the estimate submitted that a dispensation order may not be necessary. However, I conclude that in the event the costs of the permitted works exceed the prescribed limit, an order should be granted and that it is 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

Basement Flat, 69 Stockport Road	David Paul Drinkwater & Emma Mary Hart
Flat 1, 63 Stockport Road	Jessica Meaney & Adam Sheldon
Flat 1, 65 Stockport Road	James Patrick Garrahy
Flat 1, 67 Stockport Road	Sophie Rebecca Hussey
Flat 1, 69 Stockport Road	Claire Alexandra Paddock
Flat 1, 71 Stockport Road	David Leigh & Olwen Leigh
Flat 2, 63 Stockport Road	Christopher & Caroline Hethrington
Flat 2, 65 Stockport Road	Graham Phillip Jones & Jane Margaret Jones
Flat 2, 67 Stockport Road	Anthony Peter Wood
Flat 2, 69 Stockport Road	Simon Wood
Flat 2, 71 Stockport Road	Ayesha Al-Helou
Flat 3, 69 Stockport Road	Michelle Taylor
Flat 3, 71 Stockport Road	Peter Wilson
Flat 4, 69 Stockport Road	Christopher Andrew Jones
Flat 4, 71 Stockport Road	Carol Maskery