



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

Case Reference(s) : **MAN/OOCY/LDC/2019/0011**

Property : **31-41 Victoria Chase, Bailiff Bridge
Brighthouse HD6 4DE**

Applicant : **Places for People Homes Ltd**

Representative : **Residential Management Group Ltd**

Respondents : **Leaseholders at the Property**

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

Tribunal Members : **Laurence Bennett (Deputy Regional Judge)
Niall Walsh (Deputy Regional Valuer)**

Date of determination : **5 June 2019**

Date of Decision : **11 June 2019**

DECISION

Application

1. Places for People Homes Ltd 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 work to coping stones on parapet walls on the edges of the roof 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 18 March 2019.
4. The Applicant is the Lessor and Freeholder of the flats at the Property.
5. On 12 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 3 storey purpose built block containing 6 x 2 bedroom flats, 2 flats on each floor.
7. The roof of the Property is stated to be pitched, sloping to front and rear with a small gabled roof above the communal entrance. The roof is slate or similar and at both edges of the front and rear slopes there is a low parapet wall with coping stones.
8. The Applicant stated in the application form that "..... the work relates to the coping stones as in August 2018 a number slipped and fell from their base. A risk has been identified in a second location. Initial work was required to make the block safe with a second stage to resecure and renew coping stones where broken.
9. Further information states that a Notice of Intention to Consult was prepared but an insurance claim was pursued. Although the claim was declined, work was then arranged because of the urgency.
10. The Applicant states that the urgent need for work was evident because coping stones had fallen to the ground and/or were in danger of falling to the ground. A trusted contractor was engaged.
11. In accordance with directions the Applicant has provided copy standard Lease, contemporaneous emails, photographs, invoices and a case statement with a further letter of response to a Respondent's case statement.
12. A statement of case has been received from Mr Michael Gilday, a representative of 6 Respondents. He gives details of his personal involvement following the falling stones. He comments that a consultation process could have been followed at the time and includes correspondence with RMG the Applicant's Managers.
13. Neither the Applicant nor a Respondent requested a hearing.

14. The Tribunal convened without the parties to determine the application on 5 June 2019.

Law

15. Section 18 of the Act defines “service charge” and “relevant costs”.
16. Section 19 of the Act limits the amount payable by the lessees to the extent that the charges are reasonably incurred.
17. 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 the First Tier TribunalThis Section applies to qualifying works, if relevant costs incurred on carrying out the works exceed an appropriate amount”.
18. “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.”
19. 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

20. We considered the written evidence accompanying the application.

Our conclusions are:-
21. It is not necessary for us to consider the extent of the service charge payable by the Respondents that has resulted from the work. If disputed when demanded an application may be made to the Tribunal under Section 27 Landlord and Tenant Act 1985.
22. We find from the evidence provided on behalf of both parties that circumstances arose in which it was necessary to ensure that the evident risk of falling masonry was countered. We note there was a delay whilst an insurance claim was pursued and alternatives considered and from the Respondents’ submissions that there was communication on their behalf with the Managers.
23. We accept that it was necessary for work to commence as quickly as possible. It is clear that the disrepair had 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.

24. Although formal consultation did not take place, we are satisfied it would have been impracticable at the time despite the period identified by the Respondents. The Leaseholders have been informed of the position. We have not identified a specific prejudice to Leaseholders in the circumstances. Comments made are properly the matter for consideration when a service charge is demanded and may be the subject of consideration under Section 27A of the Act.
25. 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.
26. 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

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

L J Bennett
Tribunal Judge
5 June 2019