



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

Case Reference : **MAN/OOCB/LDC/2019/0012**

Property : **Mobberley Court, Mobberley Way,
Spital Road, Wirral CH63 9JN**

Applicant : **Wirral Methodist Housing Association**

Respondents : **Leaseholders of apartments 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. Wirral Methodist Housing Association 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 the lift at Mobberley Court, Mobberley Way, Wirral CH63 9JN the Property.
2. The Respondents are Leaseholders of apartments at the Property.

Grounds and Submissions

3. The application was received by the Tribunal on 21 March 2019.
4. The Applicant is the Landlord within the Leases of the apartments at the Property.
5. On 10 April 2019 Deputy Regional Valuer Walsh made directions which 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 purpose-built block comprising 11 residential apartments providing sheltered accommodation for vulnerable elderly people. It has a communal lounge and lift to upper floors.
7. The Applicant stated in the application form that the work is required for installation of a new control and cable system and new car internal control to the lift at the Property.
8. Further information gives details of the work required, tenders received and the cost to each individual Leaseholder. Details of quotations have been provided. The Applicant explains its objective consideration of the tenders taking into account quality and value.
9. The applicant states no formal consultation has been carried out as the work is extremely urgent and a "very competitive price" has been obtained. In its current state, the lift is not compliant with Fire Risk assessment.
10. The Applicant states that the residents are all elderly and in need of support and assistance. Many are unable to mobilise without assistance and the lift is essential to enable them to leave their apartments.
11. In accordance with directions the Applicant has provided a sample Lease, copy lift condition report and a statement of case.
12. The Tribunal did not receive submissions from a Leaseholder in accordance with directions.
13. The Tribunal convened without the parties to make its determination 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 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 of the work proposed and the obvious consequences of lift failure and fire risk that it is necessary for it to commence without delay. The lack of repair and service has potential to impact on the health, safety, utility and comfort of occupiers and visitors to the apartments at the Property, more so, bearing in mind the age of occupiers.

22. Although no form of consultation has taken place nor is there evidence that information has been given to the Respondents, we have not identified a specific prejudice to them 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).
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