



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

Case Reference : **MAN/OOCX/LDC/2020/0006**

Property : **The Old Tannery, Clyde Street, Bingley
West Yorkshire BD16 4JJ**

Applicant : **The Tannery RTM Company Limited**

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

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

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

Date of determination : **24 March 2020**

Date of Decision : **27 March 2020**

DECISION

Application

1. The Tannery RTM Company 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 work to the roof and associated repair at The Old Tannery, Clyde Street, Bingley, West Yorkshire BD16 4JJ (the Property).
2. The Respondents are Leaseholders of apartments at the Property.

Grounds and Submissions

3. The application was received by the Tribunal on 27 January 2020.
4. The Applicant is a Right to Manage Company carrying out the managing obligations within the Leases of the apartments at the Property.
5. On 26 February 2020 Regional Judge Duffy 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 Grade II listed former mill constructed around 1900 comprising 5 storeys to the front and 4 to the rear with a 5 storey water tower with a cast iron water tank. There are 27 apartments, apartment 25 is directly below the water tank part of which sits within the roof void of that apartment.
7. The Applicant stated in the application form that the work is required because of substantial rainwater ingress causing damage to the ceiling of one apartment and damp with a threat of further collapse and migration of damage to other apartments.
8. Further information provides details of the work required, quotations received, discussion at an AGM on 21 November 2019 and urgency of work. It requires a seamless rubber membrane, scaffolding, roofing work, sealing of the water tank and work to copings.
9. In accordance with directions the Applicant has provided a case statement and copies of documents extracted above.
10. The Tribunal did not receive submissions from a Leaseholder in accordance with directions.
11. The Tribunal convened without the parties to make its determination on 24 March 2020.

Law

12. Section 18 of the Act defines "service charge" and "relevant costs".
13. Section 19 of the Act limits the amount payable by the lessees to the extent that the charges are reasonably incurred.
14. 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”.

- 15. “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.”
- 16. 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

- 17. We considered the written evidence accompanying the application.

Our conclusions are:-
- 18. 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.
- 19. We accept from the details of the damage suffered, work proposed and the obvious consequences of further water ingress that it is necessary for repairs to commence without delay. The lack of repair has potential to impact on the health, safety, utility and comfort of occupiers and visitors to the apartments at the Property.
- 20. Although no formal consultation has taken place nor is there evidence of the specific information 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.
- 21. 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).
- 22. 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

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

L J Bennett
Tribunal Judge
24 March 2020