



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

Case Reference(s) : MAN/36UD/LDC/2020/0005

**Property : Harrogate House, 39 Parliament Street,
Harrogate HG1 2BU**

Applicant : Harrogate House (Maintenance) Limited

Representative : Adair Paxton – William Marshall

Respondents : Leaseholders of Apartments 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 : 24 March 2020

Date of Decision : 27 March 2020

DECISION

Application

1. Harrogate House (Maintenance) 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 a waking fire watch at the Property.
2. The Respondents are the individual Residential 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 the Management Company, a party to the Leases of apartments at the Property.
5. On 2 March 2020 Deputy Regional Judge Bennett 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 refurbished office block over 18 metres high converted into 20 x 2 bedroom apartments during 2005.
7. The Applicant stated in the application form that because of external cladding and associated fire risk a 24/7 waking watch is required. "A waking watch is already in place via the Freeholder but they are shortly passing this responsibility over to the Management Company."
8. Further information states that the cost is around £100,000 p.a. and the situation is serious. The need has arisen from a requirement to upgrade and alter the fire alarm and install a smoke vent system. It is urgent with obvious safety consequences.
9. In accordance with directions the Applicant has provided copy standard Lease, quotation and contract overview and a summary fire safety report.
10. Submissions have not been received from a Respondent.
11. Neither the Applicant nor a Respondent requested a hearing.
12. The Tribunal convened without the parties to determine the application on 24 March 2020.

Law

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

This Section applies to qualifying works, if relevant costs incurred on carrying out the works exceed an appropriate amount”.

- 16. “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.”
- 17. 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

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

Our conclusions are:-
- 19. 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.
- 20. We note the risk from the evidence provided and that it is necessary for the waking watch, alarm and smoke work to take place immediately. It is clear that the circumstances have the potential to severely impact on the health, safety, utility and comfort of occupiers and visitors to the apartments and common parts at the Property.
- 21. Although formal consultation has not taken place, we are satisfied it would be impracticable because of the urgency. 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.
- 22. 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.
- 23. 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

24. 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**