



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

Case Reference : **MAN/00FD/LDC/2019/0044**

Properties : **Flats in Greens Close, Walkers Close and Wilsons Close, Scunthorpe**

Applicant : **Ongo Homes Limited**
Representative : **Forbes Solicitors**

Respondents : **Residential Leaseholders of the flats**

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. Ongo Homes 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 rooves and wall ties at the Properties.
2. The Respondents are the Residential Leaseholders of the flats at the Properties.

Grounds and Submissions

3. The application was received by the Tribunal on 18 December 2019.
4. The Applicant is the Lessor of the Properties.
5. On 14 January 2020 Deputy Regional Judge Holbrook 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 Properties are 16 one or two bedroom flats within 11 purpose built blocks.
7. The Applicant stated in the application form that the work is urgently required because of rainwater penetration caused by displacement of ridge tiles, a lack of wall ties and a lack of restraint between the monopitch roof trusses and the external vertical wall.
8. Further information provides details of the work required including a survey report, photographs and schedule, a technical statement and a tender process statement.
9. In accordance with directions the Applicant has provided a case statement and copy Leases and a Registered Title.
10. The Applicant states that notice of intention has been sent to Leaseholders but "the Applicant has carried out a tender process but only received 1 response. The efforts made by the Applicant to publicise the contract show that it has made reasonable efforts to obtain 2 estimates for the works. Due to the urgency of the works the Applicant cannot wait any longer to try and obtain another estimate. Furthermore, it has received 1 estimate from Ongo Roofing who can do the works within the urgent timescale at competitive prices."
11. The sole submission by a Leaseholder does not directly address the disrepair or need for urgency but comments on who should have liability for the cost.
12. Neither the Applicant nor a Respondent requested a hearing.
13. The Tribunal convened without the parties to make its determination on 24 March 2020.

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 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.
22. Although formal consultation has not been completed, we have not identified a specific prejudice to the Respondents 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
24 March 2020**