



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

Case Reference : **MAN/00EJ/LDC/2020/0054**

Property : **1-9 Taylor Court, Carrville, Durham DH1
1EL**

Applicant : **Gentoo Group**

Respondents : **1 Taylor Court – Mr & Mrs G Taylor
2 Taylor Court – J A Property Ltd
3 Taylor Court – Mr W. Heaton
4 Taylor Court – Mr & Mrs B. Beeson
5 Taylor Court – Mr & Mrs P. Eltrincham
6 Taylor Court – Mr & Mrs C. Brown
7 Taylor Court – Mr Blagojevic, Mr P. Fava
& Mrs M. Swansbury
8 & 9 Taylor Court – Mr & Mrs W. Morton**

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

Tribunal Member : **Deputy Regional Judge L J Bennett**

Date of Decision : **16 September 2021**

DIRECTIONS

Application

1. Gentoo Group 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 repairs and replacement of the fire alarm system at 1-9 Taylor Court, Carrville, Durham, Co Durham (the Property).
2. The Respondents are Leaseholders of apartments at the Property.

Grounds and Submissions

3. The application was received by the Tribunal on 3 December 2020.
4. The Applicant is stated to be the Landlord or Successor Landlord to the Leases of the apartments at the Property.
5. On 4 January 2021 Judge J Holbrook made directions requiring service of the documents by the Applicant on each Respondent. The directions 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 of 9 residential apartments.
7. The Applicant explains that: "The repair that is required needs to be urgently carried out to health and safety and fire risk as the building doesn't currently have a working fire alarm system.
8. The Applicant states that the fire alarm system has failures which are intermittent but frequent enough that the call points aren't working which means it can't be tested properly. This also causes the problem that the residents are unable to raise the alarm in the event of a fire. Which is a fire and health and safety risk. They have provided details of the cost of replacement approximately £3,700 + VAT.
9. The Applicant has provided copies of letters to residential Leaseholders informing them of the work.
10. In response to directions the Applicant has provided sample leases and copy correspondence to Leaseholders.
11. The Tribunal did not receive submissions from a Respondent Leaseholder. Neither the Applicant nor a Respondent requested a hearing.
12. The Tribunal convened without the parties to make its determination on 16 September 2021.

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 a 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 within the application.
Our conclusions are:-
19. 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.
20. We accept from the details provided that installation work is urgent and may already have been completed. If not, there is a continuing risk which has an obvious and significant potential to impact on the health and safety of occupiers and visitors to the apartments at the Property.
21. Although formal consultation has not taken place, we accept that Leaseholders are aware of the underlying issue and this application. Balancing the need for urgent action against dispensing with statutory requirements devised to protect service charge paying Leaseholders, we conclude the urgency outweighs any identified prejudice. Dispensation from consultation requirements does not imply that the resulting service charge is reasonable.
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).
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.

Laurence J Bennett
Tribunal Judge
16 September 2021