



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

Case Reference : **MAN/OOBN/LDC/2021/0041**

Property : **Burton Place, Ellesmere Street, Castlefield
Manchester M15 4LD**

Applicant : **Burton Place (Manchester) Management
Limited**

Representative : **JB Leitch Limited**

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

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

Tribunal Members : **Laurence Bennett (Tribunal Judge)**

Date of determination : **11 February 2022**

Date of Decision : **22 February 2022**

DECISION

Application

1. Burton Place (Manchester) Management 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 relation to fire safety work at Burton Place, Ellesmere Street, Castlefield, Manchester M15 4LD (the Property).
2. The Respondents are Leaseholders of apartments at the Property.

Grounds and Submissions

3. The application is dated 16 July 2021.
4. The Applicant is the Management Company a party to all residential leases at the Property.
5. On 11 November 2021 Deputy Regional Judge Bennett 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 7 storey building comprising 90 residential apartments above ground level, commercial units at ground level and 2 basement level underground car parking. The height of the building is 21 metres.
7. The Applicant explains that "Burton Place is a steel frame building with insulated timber framed infill substructure. The building is clad with untreated iroko cladding boards and PPC aluminium surrounds. The glazing is aluminium framed and forms bi-fold doors to the living rooms behind an inset balcony. The balconies are set behind fold-able timber shutters."
8. The Applicant's statement of case sets out a chronology following a combined Fire/Health Safety Risk Survey on 30 July 2019 which includes hazard identification, assessment of compliance with relevant Fire Safety Legislation, recommendations for remediation, interim measures, further investigation and findings of necessary work. Tenders were invited and planning permission was sought and granted.
9. The Applicant states that its Managing Agents have informed Leaseholders by correspondence and Notice of Intention since February 2020. The Notice of Intention specifies contemplated work and rationale and invited written observations.
10. An application to The Building Safety Fund has been initiated. This requires entrance into a contract to complete the work urgently.
11. In response to directions the Applicant has provided a statement of case, copy correspondence to Leaseholders, copies of sample Leases, inspection reports, planning permission, tender submissions, architect's design narrative and other relevant documentation.

12. The Tribunal did not receive submissions from a Respondent Leaseholder. The Applicant has provided correspondence with a commercial Leaseholder who was notified as a courtesy. Neither the Applicant nor a Respondent requested a hearing.
13. The Tribunal convened without the parties to make its determination on 11 February 2022.

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 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 provided that entry into a contract for the work is urgent. This is necessary to enable grant funding. Further, the defects to be remedied have an obvious and significant potential to impact on the health and safety of occupiers and visitors to the apartments at the Property.
22. Although formal consultation has not taken place, we note an initial Notice has been served and that Leaseholders are aware of the underlying issues 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. We note that grant funding if secured is a significant mitigation. 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.

Laurence J Bennett
Tribunal Judge
22 February 2022