



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

Case Reference : **MAN/00BN/LDC/2022/0039**

Property : **Knowles Court, Eccles Road, Salford M6 8ES**

Applicant : **Opengate Residents Association Limited**

Representative : **Thornley Groves**

Respondents : **Long Residential Leaseholders at the Property**

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

Tribunal Member : **Judge L Bennett**

Date of determination : **19 December 2022**

Date of Decision : **19 December 2022**

DECISION

Application

1. Opengate Residents Association 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 Fire Safety Works (the Works) carried out at Knowles Court (the Property).
2. The Respondents are the Long Residential Leaseholders at the Property and listed at the Annex to this decision.

Grounds and Submissions

3. The application was received by the Tribunal on 5 May 2022.
4. The Applicant is the resident management company with responsibility for the building.
5. The Tribunal did not carry out an inspection but understands that the Property comprises 2 x 3 storey buildings, constructed of traditional brick cavity walls with block and beam floors, with a flat roof, housing 40 individual flats.
6. On 22 July 2022, a Tribunal Judge made directions requiring the service of documents by the Applicant upon each of the Respondents. The directions provided that in the absence of a request for a hearing the application would be determined upon the parties' written submissions. However, it later came to light that not all the leaseholder Respondents were included in the Applicant's original application. A Tribunal Legal Officer therefore made further directions on 5 October 2022. The Applicant amended its application to include all 40 of the leaseholders at Knowles Court and was directed to serve a copy of its case bundle and the Tribunal directions upon each Respondent Leaseholder. The Applicant's Representative confirmed on 27 October 2022 that the bundle had been served on all of the Respondents.
7. The Applicant has provided a statement explaining why the application was made to the Tribunal together with supporting documents.
8. On 27 October 2021, the Applicant made arrangements to meet with Greater Manchester Fire and Rescue Service. On 16 November 2021, a Fire Risk Assessment was undertaken by Greater Manchester Fire and Rescue Service. A number of fire safety issues were found and an action plan was drawn up in order to remedy those issues. On 31 January 2022, Greater Manchester Fire and Rescue Service wrote to the Applicant confirming the breaches of the Regulatory Reform (Fire Safety) Order 2005 and listing the areas of non-compliance. It stated that the areas of non-compliance were considered serious but able to be rectified. Failure to comply with the Regulations is an offence, which may result in the Combined Authority issuing an Enforcement Notice to ensure compliance.
9. Quotes for the works were obtained as a matter of urgency, which is evidenced in the Applicant's bundle, so that the necessary actions could be instructed as soon as possible, for the safety of the residents.

10. The Tribunal did not receive any submissions from a Respondent Leaseholder. Neither the Applicant nor a Respondent requested a hearing.
11. The Tribunal convened without the parties to make its determination on 19 December 2022.

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 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. I have determined this matter following a consideration of the Applicant’s case but without holding a hearing. Rule 31 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 permits a case to be dealt with in this manner provided that the parties give their consent (or do not object when a paper determination is proposed). In this case, the Applicant has given its consent and the Tribunal has not heard from a Respondent in response to the application. Moreover, having reviewed the case papers, I am satisfied that this matter is indeed suitable to be determined without a hearing. Determining this matter does not require me to decide disputed questions of fact.
18. It is not necessary to consider at this stage the extent of any service charges that may result from the works payable under the terms of the Respondents’ leases. If and when such is demanded, and if disputed, it may properly be the subject of a future application to the Tribunal.
19. Having considered the submission made by the Applicant I accept the urgent nature of the works. A consultation exercise would have added considerable delay. For the safety of all Residents, a decision was taken to act swiftly and carry out the

necessary urgent works. The Applicant's agent did keep leaseholders informed as to the progress of the works.

20. In **Daejan Investments Ltd v Benson [2013] UKSC 14** it was determined that a Tribunal, when considering whether to grant dispensation, should consider whether the tenants would be prejudiced by any failure to comply with the Consultation Requirements. Balancing the need for urgent action against dispensing with statutory requirements devised to protect service charge paying Leaseholders, I conclude that the urgency outweighs any identified prejudice. Dispensation from consultation requirements does not imply that any resulting service charge is reasonable.

Order

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

Laurence J Bennett
Tribunal Judge
19 December 2022

Annex - List of Respondent Leaseholders and Unit Number

Leaseholder	Unit
Archibald Hart	1 Knowles Court
Mr & Mrs Owens	2 Knowles Court
Jennifer Leanne Grayson-Allcock	3 Knowles Court
Gail Hazel Smith & E Smith	4 Knowles Court
Andrew Watkins	5 Knowles Court
Mr Sanjay Doshi	6 Knowles Court
Miss Elspeth Ryner	7 Knowles Court
Miss I M Halliwell	8 Knowles Court
Mr Anthony Nicholls	9 Knowles Court
Amy Yu Di Chan	10 Knowles Court
Mr & Mrs Piggott	11 Knowles Court
Mr & Mrs Hitchcock	12 Knowles Court
Mrs D Murphy	13 Knowles Court
Mrs Kathleen Kelly	14 Knowles Court
Miss J Dudley	15 Knowles Court
Sean & Vivien Rourke	16 Knowles Court
Mrs Uttley	17 Knowles Court
Mr Sodawala	18 Knowles Court
Mr Campbell	19 Knowles Court
Janice & Kenneth Fletcher	20 Knowles Court
Mr Alan Gay	21 Knowles Court
Mr Heywood	22 Knowles Court
Mr & Mrs E Smith	23 Knowles Court
Mr Crankshaw	24 Knowles Court
Berron Limited	25 Knowles Court
Mr & Mrs Wolstenholme	26 Knowles Court
Deen Enterprise	27 Knowles Court
Miss Kerry O'Sullivan	28 Knowles Court
Mr & Mrs Murphy	29 Knowles Court
Miss Susan Wroe	30 Knowles Court
Miss Gail Brough	31 Knowles Court
Gail Hazel Smith & E Smith	32 Knowles Court
M & Mrs Parkins	33 Knowles Court
Miss Lynda Smith	34 Knowles Court
Mr Edward Walker	35 Knowles Court
Mr Kaduji	36 Knowles Court
Paul & David Burgess	37 Knowles Court
Miss Denise Coulston	38 Knowles Court
Joseph Daniel Brierley	39 Knowles Court
Dr S Agrawal	40 Knowles Court

