



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

**Case Reference** : **MAN/00BN/LDC/2022/0040**

**Property** : **1-27 Montmano Drive, Manchester M20 2EB**

**Applicant** : **South at Didsbury Point One Management Limited**

**Representative** : **Zenith Management Limited**

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

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

**Tribunal Member** : **Judge L Bennett**

**Date of Decision** : : **12 December 2022**

**Date of Determination** : **22 December 2022**

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**DECISION**

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## **Application**

1. South at Didsbury Point One 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 respect of replacement of the pump sets (the Works) carried out at 1-27 Montmano Drive, Manchester M20 2EB (the Property).
2. The Respondents are Leaseholders of Flats at the Property and listed at the Annex to this decision.

## **Grounds and Submissions**

3. The application was received by the Tribunal on 19 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 is a purpose-built block of 14 flats, which is part of the South at Didsbury Point One estate.
6. On 15 September 2022, a Tribunal Judge made directions requiring the service of documents by the Applicant on 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.
7. In response to directions the Applicant has provided a statement explaining why the application was made to the Tribunal together with supporting documents.
8. At the time the application was submitted, it was reported that pump no.2 had a recurring fault which would lead to the pump set tripping. Engineers were able to restore water to the building by isolating pump no.2 and having the building operating solely on pump no.1. Attempts were made by the contractors to restore the pump but this was unsuccessful. Because the existing pump set is now obsolete it was decided to obtain quotations for a replacement set rather than just replacing pump no.2. The pumps had not been replaced since the construction of the building in 2004. Without the works being carried out there was a high risk of the building being left without running water.
9. Zenith Management Limited engaged with 3 separate contractors to provide a quote to complete the works. Having reviewed the quotations, Marshall Pumps were the preferred contractors as they were not only the cheapest (£5,848(inc. VAT)) but they also maintain and service the system. AGM Group quoted £6,895(inc. VAT). GW Pumps were unable to provide a comparable quote given the age of the system.
10. The development has a Reserve Fund in place to which Leaseholders contribute as part of Service Charge collection. The Applicant confirmed that the works will be funded for via the Reserve Fund, meaning Leaseholders would not be expected to make any additional payments outside of the service charge to fund the works.

11. The Tribunal did not receive any 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 12 December 2022.

## **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. 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.
19. 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.
20. Having considered the submission made by the Applicant I accept the urgent nature of the works. Carrying out a Section 20 exercise would be time consuming and add

to delays to the works. In the meantime if pump no.1 failed, the residents would be left without any running water.

32. 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**

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

**Laurence J Bennett**  
**Tribunal Judge**  
**12 December 2022**

**Annex - List of Respondent Leaseholders and Unit Number**

<b>Leaseholder</b>	<b>Unit</b>
Mr Scappaticci	1 Montmano Drive
Ms Jennifer Louise Lindsay	3 Montmano Drive
Parochial Church Council	5 Montmano Drive
Mr Halley	7 Montmano Drive
Dr Alshawy	9 Montmano Drive
Mrs Kalra	11 Montmano Drive
Miss Amy Astill	13 Montmano Drive
Ms Barnett & Ms Harrison	15 Montmano Drive
Dr Sighu	17 Montmano Drive
Dr Neha Swift	19 Montmano Drive
Mr Majid	21 Montmano Drive
Yu Wang	23 Montmano Drive
Mr Christopher W.K Essex	25 Montmano Drive
Mr Alex Anglin	27 Montmano Drive