



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

Case Reference : **MAN/ooCZ/LDC/2022/0055**

Property : **Flats 47-63 (odd numbers only)
Greenlea Court
Huddersfield
West Yorkshire
HD5 8QA**

Applicant : **Yorkshire Housing Limited**

Representative : **N/A**

Respondents : **The leaseholders of the Property
(see Annex)**

Type of Application : **Landlord and Tenant Act 1985
- section 20ZA**

Tribunal : **Judge J Holbrook**

Date and venue of Hearing : **Determined without a hearing**

Date of Decision : **10 March 2023**

DECISION

DECISION

Compliance with the consultation requirements of section 20 of the Landlord and Tenant Act 1985 is dispensed with in relation to remedial works to the roof of the Property.

REASONS

Background

1. In October 2022, an application was made to the First-tier Tribunal (Property Chamber) (“the Tribunal”) under section 20ZA of the Landlord and Tenant Act 1985 (“the Act”) for a determination to dispense with the consultation requirements of section 20 of the Act. Those requirements (“the consultation requirements”) are set out in the Service Charges (Consultation Requirements) (England) Regulations 2003 (“the Regulations”).
2. The application was made by Yorkshire Housing Limited, the landlord of Flats 47-63 (odd numbers only), Greenlea Court, Huddersfield HD5 8QA (“the Property”).
3. The Respondents to the application are listed in the Annex to this decision. They are the leaseholders of the 9 residential flats which comprise the Property.
4. The only issue for the Tribunal to determine is whether or not it is reasonable to dispense with the consultation requirements.
5. The works in respect of which a dispensation is sought concern urgent works to replace three loose coping stones on the roof of the Property.
6. Each of the Respondents have been given notice of the application and have been sent a copy of the Applicant’s supporting evidence. None of them have responded or given any indication that they oppose the application.
7. 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 Respondents have not objected. Moreover, having reviewed the case papers, I am satisfied that this matter is indeed suitable to be determined without a hearing: although the Respondents are not legally represented, the issues to be decided are readily apparent and determining this matter does not require me to decide disputed questions of fact.

8. I did not inspect the Property, but I understand it to be a three-storey block of flats, built in 2006.

Grounds for the application

9. The Applicant's case is that an inspection of the Property's roof revealed that there were three loose coping stones which were loose, had slipped from their original positions, and were likely to fall from the building. Safety barriers were erected at ground floor level and residents were alerted to the risk. A contractor from the Applicant's approved list was appointed to carry out the necessary remedial works urgently, at an estimated cost of £12,000. It is envisaged that these costs will be attributed to the 2023 service charge, but that they will be paid out of the Property's sinking fund. The Applicant asserts that it was appropriate to proceed in this way, without further consultation with the leaseholders, in view of the urgency of the works.

Law

10. Section 18 of the Act defines what is meant by "service charge". It also defines the expression "relevant costs" as:

the costs or estimated costs incurred or to be incurred by or on behalf of the landlord, or a superior landlord, in connection with the matters for which the service charge is payable.

11. Section 19 of the Act limits the amount of any relevant costs which may be included in a service charge to costs which are reasonably incurred, and section 20(1) provides:

Where this section applies to any qualifying works ... the relevant contributions of tenants are limited ... unless the consultation requirements have been either-
(a) complied with in relation to the works ... or
(b) dispensed with in relation to the works ... by the appropriate tribunal.

12. "Qualifying works" for this purpose are works on a building or any other premises (section 20ZA(2) of the Act), and section 20 applies to qualifying works if relevant costs incurred on carrying out the works exceed an amount which results in the relevant contribution of any tenant being more than £250.00 (section 20(3) of the Act and regulation 6 of the Regulations).

13. Section 20ZA(1) of the Act provides:

Where an application is made to the appropriate 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.

14. Reference should be made to the Regulations themselves for full details of the applicable consultation requirements. In outline, however, they require a landlord (or management company) to:

- give written notice of its intention to carry out qualifying works, inviting leaseholders to make observations and to nominate contractors from whom an estimate for carrying out the works should be sought;
- obtain estimates for carrying out the works, and supply leaseholders with a statement setting out, as regards at least two of those estimates, the amount specified as the estimated cost of the proposed works, together with a summary of any initial observations made by leaseholders;
- make all the estimates available for inspection; invite leaseholders to make observations about them; and then to have regard to those observations;
- give written notice to the leaseholders within 21 days of entering into a contract for the works explaining why the contract was awarded to the preferred bidder if that is not the person who submitted the lowest estimate.

Conclusions

15. The Tribunal must decide whether it is reasonable for the works to go ahead without the Applicant first complying with the consultation requirements. Those requirements are intended to ensure a degree of transparency and accountability when a landlord (or management company) decides to undertake qualifying works – the requirements ensure that leaseholders have the opportunity to know about, and to comment on, decisions about major works before those decisions are taken. They also ensure that leaseholders are protected from paying for inappropriate work, or from paying more than would be appropriate for necessary work. It is reasonable that the consultation requirements should be complied with unless there are good reasons for dispensing with all or any of them on the facts of a particular case.

16. It follows that, for it to be appropriate to dispense with the consultation requirements, there needs to be a good reason why the works cannot be delayed until the requirements have been complied with. The Tribunal must weigh the balance of prejudice between, on the one hand, the need for swift remedial action to ensure that the condition of the Property does not deteriorate further and, on the other hand, the legitimate interests of the leaseholders in being properly consulted before major works begin. It must consider whether this balance favours allowing the works to be undertaken immediately (without consultation), or whether it favours prior consultation in the usual way (with the inevitable delay

in carrying out the works which that will require). The balance is likely to be tipped in favour of dispensation in a case in which there is an urgent need for remedial or preventative action, or where all the leaseholders consent to the grant of a dispensation.

17. I am satisfied that in the particular circumstances of the present case, there was a clear need for urgent action to be taken in order to minimise the risk of injury from falling debris; of further damage to the Property; and of resulting inconvenience for its residents. I note that the Respondents have been informed of the proposal to carry out the works and that none of them have objected. There is no evidence that the Respondents have been prejudiced by the lack of opportunity to be consulted about the works. The balance of prejudice therefore favours dispensing with the consultation requirements.
18. The fact that I have granted dispensation from the consultation requirements should not be taken as an indication that I consider that the amount of any anticipated service charges resulting from the works is likely to be reasonable; or, indeed, that such charges will be payable by the Respondents. I make no findings in that regard.

Signed: J W Holbrook
Judge of the First-tier Tribunal
Date: 10 March 2023

ANNEX
LIST OF RESPONDENTS

Property	Leaseholder
Flat 47	Miss R Purdey
Flat 49	Mrs B Cooke
Flat 51	Miss T Dransfield
Flat 53	Mr C Meah & Mr S Meah
Flat 55	Mr D Gratino & Ms S Cable
Flat 57	Mr D Smith
Flat 59	Ms N J Charlesworth
Flat 61	Ms L Johnson
Flat 63	Miss D Rainbird