



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

Case Reference : **MAN/30UF/LDC/2022/0046**

Property : **Farnholme, Moorland Road, Poulton-Le-Fylde
FY6 7ER**

Applicant : **Farnholme Management Company
Limited**

Representative : **Homestead Consultancy Services Limited**

Respondents : **Long Residential Leaseholders at the Property
(see Annex)**

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

Tribunal Member : **Regional Surveyor Walsh**

Date of determination : **2 May 2023**

Date of Decision : **2 May 2023**

DECISION

Application

1. Farnholme Management Company Limited applies to the Tribunal under Section 20ZA of the 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 electrical safety works (the Works) at Farnholme, Moorland Road, Poulton-Le-Fylde FY6 7ER (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 4 August 2022.
4. The Applicant is the management company with responsibility for the building.
5. The Tribunal did not carry out an inspection but understands that the Property was constructed c1979 and comprises 12 flats under a pitched roof, with surrounding gardens.
6. On 22 December 2022, a Tribunal Legal Officer 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.
7. The Applicant has provided a statement of case explaining why the application was made to the Tribunal together with supporting documents.
8. An Electrical Installation Condition Report was carried out at the Property on 31 May 2022 by Dockside Engineers. It highlighted a number of issues that required urgent attention. The full report and accompanying schedules can be found at exhibit 5 of the Applicant's bundle. The electrical installation has been in service for a long time, some of the cabling originates from when the building was built and is reaching the end of its working life. Being a potential fire hazard and health and safety risk, it was recommended that the Property is fully re-wired as soon as possible.
9. Dockside Engineers provided a quote for the following works and an order was placed by the Applicant for the works to be carried out:
 - 1) Install a new metal clad fire rated fuse box consumer unit fitted with individual RcBos.
 - 2) Rewire the sockets and reposition them to one single socket per landing and one in the hall for cleaning and maintenance purposes. One double socket in the under stairs switch-meter area.
 - 3) Lighting. Rewire and install new LED fittings fitted with PIR detection and emergency light packs.
 - 4) The gas and water services are to be earthed – cross bonded.

- 5) Existing storage heaters are to be removed and two new panel heaters are recommended to be set up to activate frost protection.
- 6) The present off-peak meter can then be removed by the utilities provider.
- 7) The lift supply and sub mains should be upgraded at the same time the lifts are repaired – upgraded.
- 8) Existing submains to garage to be reconnected.
- 9) No redecorating or replastering to be carried out.

COSTS

General lighting and power £3216.00 + VAT per block (2 blocks £6432.00 +VAT)

Lift – submain to the lift motor room control panel - £891.14 + VAT per block (2 blocks £1782.28 + VAT).

Garages – to upgrade the existing fuse box to have individual RcBo circuit breakers - £297.68 + VAT.

10. Paperwork, including a part 1 section 20 notice, was sent to all leaseholders on 28 July 2022, following the EICR Report. Shortly afterwards the application to the Tribunal was made. A further update was circulated to leaseholders on 15 August 2022 once the estimate had been received.
11. The Tribunal did not receive any submissions from Respondent leaseholders. Neither the Applicant nor a Respondent requested a hearing.
12. The Tribunal therefore convened without the parties to make its determination on 2 May 2023.

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. A full consultation exercise would have added considerable delay. For the safety of all residents, a decision was taken to act swiftly and carry out the works. The Applicant did notify leaseholders about the works and of the application to the Tribunal.
21. 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 potential prejudice. Dispensation from consultation requirements does not imply that any resulting service charge is reasonable.

Order

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

Niall Walsh
Regional Surveyor
2 May 2023

Annex - List of Respondent Leaseholders

Leaseholders	
Mr & Mrs F Barr	Mr & Mrs J G Chandler
Mr J C B Roberts	Ms H Dial
Mrs S Collinson	Mr J SHunt
Mrs J Atkins	Mrs A Poole
Mr P Fairbotham	
Mrs S Bebbington	
Mr W P Chattington	
Mr & Mrs P Maughan	