



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

Case Reference : **MAN/00BY/LDC/2023/0039**

Property : **5 Livingstone Drive, Liverpool, L17 8XY**

Applicant : **Parkside Properties (Liverpool) Ltd**

Respondents : **Owners of Flats 1 – 8, 5 Livingstone Drive**

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

Tribunal Members : **Caroline Hunter
William Reynolds**

Date of Decision : **30 October 2023**

DECISION

Summary Decision

1. The Tribunal gives dispensation from the consultation requirements.

Application

2. This application has been made by Parkside Properties (Liverpool) Ltd (the applicant) for dispensation from the consultation requirements imposed by section 20 of the Landlord and Tenant Act 1985 ('the Act') with regard to works to the boundary wall of 5 Livingstone Drive, Liverpool, L17 8XY ('the property'). The applicant completed the works on 30 May 2023.
3. Directions were issued on 15 August 2023. Those directions made it clear that the application does not concern the issue of whether any service charge costs resulting from any such works are reasonable or indeed payable and it will be open to lessees to challenge any such charged by the applicant. The directions allowed for the matter to be resolved by way of written evidence. No party sought an oral hearing.
4. Further to the Directions, the applicant provided a bundle of documents. The respondents did not provide any statements in response.

The Law

5. Section 20 of the Act limits certain service charges unless the consultation requirements in the section are complied with or dispensed with under section 20ZA. Section 20ZA provides:
 - (1) 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 or qualifying long term agreement, the tribunal may make the determination if satisfied that it is reasonable to dispense with the requirements.

The Facts

6. The property contains 8 flats. In January 2023 the agents for the applicant instructed Harris Associates (chartered building surveyors) to inspect and report on the remedial works required to the boundary wall to the rear of the property. They provided a report on 16 February 2023 that advised that due to the condition of the wall it needed to be demolished and re-built.
7. On 3 April 2023 the applicant sent s.20 consultation notices to the respondents for the works.

8. On 17 May 2023, Liverpool Council served a notice on the applicant under the Building Act 1984, s.77 requiring remedial work involving taking down the wall to the rear of the property within 14 days. The applicant emailed the respondents on 26 May 2023 to inform them that in the light of the s.77 notice the work to demolish the wall would start on 30 May, 2023.
9. On 5 June 2023 the application for dispensation was made.
10. On 8 June 2023 the respondents were emailed to be informed that an interim invoice to the works would be raised and that they would be consulted on the replacement for the wall.

Reasons to dispense with the consultation requirements

11. The application sought dispensation because of the notice from Liverpool Council. We agree that this and the insurance issues set out in the email of 26 May 2023 are good grounds to dispense with consultation.

Decision

12. For the reasons set out in the application we consider that it is reasonable to give dispensation.

RIGHTS OF APPEAL

13. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application to the First-tier Tribunal at the Regional Office, which has been dealing with the case.
14. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.
15. If the person wishing to appeal does not comply with the 28 day time limit, that person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28 day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.
16. The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking.