



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

Case Reference : **MAN/30UM/LDC/2024/0021**

Property : **374 New Line, Bacup, (Beulah Chapel), OL13 9RY**

Applicant : **Abacus Land 4 Limited**

Representative : **Residential Management Group Ltd.**

Respondent : **Sucha Singh**

Type of application : **s.20ZA of the Landlord and Tenant Act 1985**

Tribunal members : **Judge P. Forster
Judge S. Westby
Mr P. Mountain**

DECISION

Decision

Pursuant to s.20Z of the Landlord and Tenant Act 1985, the Tribunal grants dispensation from the consultation requirements of s.20 of the Landlord and Tenant Act 1985 in relation to the following works carried out in January 2024 to the flat roof of the entrance porch of 374 New Line, Bacup (Beulah Chapel), OL13 9RY:

- the erection of tower scaffolding;
- the removal the existing flat roof covering down to the original deck;
- the disposal of all waste;
- the installation of a 3"-o" cut to fall timber fairings mechanically fixed;
- boarding, using 18mm ply board/OSB board; and
- the installation of a 3-layer built up felt system including all detail work.

Background

1. This is a retrospective application under s.20ZA of the Landlord and Tenant Act 1985 (“the Act”) to dispense with the consultation requirements of s.20 of the Act. These requirements (“the consultation requirements”) are set out in the Service Charges (Consultation Requirements) (England) Regulations 2003 (“the Regulations”).
2. The application is made in respect of 374 New Line, (Beulah Chapel), Bacup, OL13 9RY (“the Property”) registered with title number LA896764 at HM Land Registry. The Property, as described by the Applicant, located in the town of Bacup in Lancashire, is a detached converted church building. The Property consists of 11 self-contained residential apartments, arranged over 5 storeys, which include the ground floor and basement.
3. The Applicant states that the Property is estimated to have been built in 1884 and was converted to apartments in around 2006. The building has stone exterior walls, a slated sloped roof on timber support and a flat roof above a two-storey main entrance porch. Works were carried out to this flat roof in January 2024 and it is these works that are the subject of this application.
4. The Applicant, Abacus Land 4 Limited, is the freehold owner and landlord of the Premises.
5. The Respondent is Sucha Singh who is the residential leaseholder of all 11 apartments at the Property.
6. The apartments located within the Property are subject to long residential leases. All the leases are granted on similar terms and include a covenant by the leaseholder to pay the ‘Service Charge’, as defined in Schedule 4 to the lease.

The Service Charge includes, amongst other things, the 'Building Services' which are the services provided by the landlord in:

'Inspecting maintaining... preparing repairing improving rebuilding... renewing replacing... and (where beyond economic repair) rebuilding replacing or renewing and otherwise treating the Building and any parts thereof...'.

7. The works carried out to the flat roof are "qualifying works" within the meaning of s.20ZA(2) of the Act and are works in respect of which each lessee will have to contribute more than £250 by way of service charge by virtue of the terms of the lease set out above.
8. The only issue for the Tribunal to determine in this matter is whether it is reasonable to dispense with the consultation requirements.
9. The Tribunal issued directions on 26 November 2024. It considered that the application could be resolved by way of submission of written evidence but invited any of the parties to apply for hearing if so desired. No such application has been made and the Tribunal therefore convened on 28 March 2025 to consider the application in the absence of the parties.
10. Paragraph 6 of the directions required the Applicant to send to the Tribunal and the Respondent a bundle of documents upon which the Applicant sought to rely in support of its application for dispensation. Paragraph 8 of the directions provided that any respondents who opposed the application were to submit written representations to the Tribunal. Paragraph 9 allowed the Applicant to submit a final written statement in reply before the Tribunal made its determination.

Grounds for the application

11. The Applicant's case is that works were urgently required to the flat roof above the two-storey entrance porch to the Property ("the Flat roof") as it was in poor condition and had caused water to permeate into the building. The Applicant states that it was made aware of a leak on 13 December 2023. On 18 December 2023, the Applicant approached a contractor, Prime Management Group Limited, which was already working on the Property, to investigate the cause of damp which had been identified on the ceiling and walls of the internal porch area. On 28 December 2023, the contractor reported that the flat roof was in poor condition and that repairs were required.
12. The contractor quoted £6,650 plus VAT to replace the flat roof which included erecting tower scaffolding, stripping the existing roof and installing a new roof.

13. On 3 and 8 January 2024, the Applicant received reports of a lighting system failure throughout the Property and this was attributed to the leak from the flat roof which had caused water to ingress into the electrical circuit.
14. On 9 January 2024, the Applicant instructed the contractor to carry out the works required to the flat roof. The repair works commenced on 12 January 2024 and were completed on 17 January 2024.
15. Given the urgency of the works, the Applicant states that it did not have sufficient time to comply with the consultation process set out in s.20 of the Landlord and Tenant Act 1985 which would have taken several months. Further, the Applicant only obtained one quotation for the works, from Prime Management Group Limited which was already working on the Property, and therefore would not have been able to comply with the second stage of the consultation process which requires the landlord to obtain at least two estimates. The Applicant submits that there is no prejudice to the Respondent by granting dispensation. The works were carried out on an urgent basis and were in the best interest of the Respondent.
16. The Applicant asks the Tribunal to grant dispensation in respect of the works, which it considers to have been so urgent as to warrant avoiding the delay that compliance with the consultation requirements would have entailed.

The Law

17. 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’.
18. 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 s.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’.*

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

20. 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’.

21. 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.

Reasons for the decision

22. The Tribunal must decide whether it was reasonable for the works to proceed without the Applicant first complying in full with the s.20 consultation requirements. These requirements ensure that tenants are provided with the opportunity to know about the works, why the works are required, and the estimated cost of those works. Importantly, it also provides tenants with the opportunity to provide general observations and nominations for possible contractors. The landlord must have regard to those observations and nominations.

23. The Tribunal had regard to the principles laid down in Daejan Investments Ltd. v Benson [2013] I WLR 854 upon which its jurisdiction is to be exercised.
24. The consultation requirements are intended to ensure a degree of transparency and accountability when a landlord decides to undertake qualifying works. 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.
25. It follows that, for the Tribunal to decide whether it was reasonable to dispense with the consultation requirements, there needs to be a good reason why the works should and could not be delayed. In considering this, the Tribunal must consider the prejudice that is caused to tenants by not undertaking the full consultation while balancing this against the risks posed to tenants by not taking swift remedial action. The balance is likely to be tipped in favour of dispensation in a case in which there was an urgent need for remedial or preventative action, or where all the leaseholders consent to the grant of a dispensation.
26. In the present case there is no doubt that the works were necessary. The water ingress into the interior of the Property was severe enough to ingress into the electrical circuit within the Property and, if such a problem had been allowed to persist, would have caused not only significant inconvenience to the tenants of the Property but also potential significant harm and risk of injury.
27. The Tribunal finds that it was reasonable for the works to proceed without the Applicant first complying with the s.20 consultation requirements. The balance of prejudice favoured permitting such works to proceed without delay.
28. The Respondent has not opposed the Applicant's application to this Tribunal and there is no evidence to contradict that of the Applicant.
29. The Tribunal emphasises the fact that it has solely determined the question of whether or not it is reasonable to grant dispensation from the consultation requirements. This decision should not be taken as an indication that the Tribunal considers that the amount of the anticipated service charges resulting from the works is likely to be recoverable or reasonable; or, indeed, that such charges will be payable by the Respondent. The Tribunal makes no findings in that regard and, should they desire to do so, the parties retain the right to make an application to the Tribunal under s.27A of the Landlord & Tenant Act 1985 as to the recoverability of the costs incurred, as a service charge.

28 March 2025
Judge P Forster

RIGHT OF APPEAL

A person wishing to appeal against 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.

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.

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.

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.