FIRST - TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case reference	**:**	**MAN/00DA/LDC/2024/0065**
Property	**:**	**Apartments 1-11 MACKINTOSH HOUSE, LEEDS LS2 7PS**
Applicant	**:**	**MACKINTOSH HOUSE MANAGEMENT COMPANY LIMITED**
Respondents	**:**	**THE RESIDENTIAL LONG LEASEHOLDERS**
Type of Application	**:**	**Section 20ZA, Landlord and Tenant Act 1985**
Tribunal Members	**:**	**Tribunal Judge A M Davies** **Tribunal Member I R Harris BSc FRICS**
Date of Decision	**:**	**12 November 2024**

DECISION

The requirement for the Applicant to consult pursuant to section 20 of the Landlord and Tenant Act 1985 in relation to the installation of CAT L2 Fire Detection System ("the Works") at the Property is dispensed with under section 20ZA of the Act on the following condition: that Scanlons Property Management LLP do not charge the Respondents their proposed fee of £65 plus VAT per apartment, or any other fee, for management of the Works.

REASONS

1. The Applicant is the Respondents' landlord at Mackintosh House, Leeds. The property comprises 11 residential apartments over 5 floors together with common parts including bin store and stairwells.

2. On 22 September 2023 J A Kelly Electrical Limited prepared a fire safety inspection and servicing certificate which listed 10 items of work considered necessary for the safety of the building's occupants. No certificate of BAFE compliance was issued. The next maintenance date was registered as 31 March 2024.

3. In December 2023 the building's insurers inspected the property and issued a requirement for repair work to be carried out to the fire alarm system. The work was to be completed by 24 July 2024.

4. In May 2024 Scanlons Property Management LLP ("Scanlons") were appointed by the Applicant to take over management of the property from the previous managing agents.

5. On 15 August 2024 Scanlons were advised by the building's insurers that the insurance policy would lapse unless the defective fire alarm system had been remedied as required in the previous December. After discussion the insurers agreed to continue cover until 28 August 2024 (subsequently extended to 11 September) to allow for the work to be carried out. Two contractors, NEFP and Pyrocel, were contacted to provide quotations for cost and starting date for the necessary works. NEFP inspected and quoted £8256 with a start date of 20 August. Pyrocel arranged to visit the property on 19 August in order to prepare a quotation. In view of the urgency, Scanlons accepted NEFP's quotation and work started on 20 August.

6. The work was too urgent to allow for the consultation procedure set out at section 20 of the Landlord and Tenant Act 1985 ("the Act") and the Service Charges (Consultation Requirements)(England) Regulations 2003. Scanlons sent a letter to each of the Respondents advising them of the situation and notifying them (a) that their respective shares of the cost of the work would be payable in accordance with the service charge provisions of their leases and (b) that Scanlons' fee for managing the situation would be £65 plus VAT per apartment. At the same time Scanlons applied to the Tribunal for the consultation provisions of the Act to be dispensed with in the circumstances.

7. Section 20 of the Act provides for a landlord planning to carry out work to a property to consult with the leaseholders if any leaseholder will have to contribute more than £250 to the cost pursuant to the service charge provisions in his lease. If a consultation compliant with the 2003 Regulations does not take place, the leaseholders cannot be required to contribute more than £250 each to the cost of the work. Section 20ZA allows a landlord to apply to the Tribunal for dispensation from the consultation requirement in an appropriate case.

8. The approach to be adopted by the Tribunal on such an application was identified by Lord Newberger in *Daejan Investment Limited v Benson et al* [2013] UKSC 14. The main issue to be determined is whether the leaseholders have been prejudiced in either paying for inappropriate works or paying more than would be appropriate as a result of the landlord's failure to comply with the consultation regulations.

9. In this case, the work was essential and extremely urgent. No Respondent has objected either to the cost or to the lack of consultation. There is no evidence that any Respondent has been prejudiced by the Applicant's inability to consult. Consequently the Tribunal dispenses with the requirement for consultation in respect of the cost of the remedial work, which it is to be hoped now provides effective fire protection for the property's residents.

10. The Applicant should have been aware of the defects in the fire alarm system at the property from the date of J A Kelly's report in September 2023, and should have known about the requirements of the building's insurers from December 2023. There is evidence on file that Mr Stewart, one of the Applicant's directors and a flat owner, was aware of the situation at least to an extent and may have notified Scanlons that there was an issue with the fire alarm system. In any event, on taking over management of the property in May 2024 Scanlons should have included in their checks that both the buildings insurance cover and the fire alarm system were in order and compliant. The requirements of the insurers should have been carried out without delay both to preserve insurance cover and for the safety of the building's occupants. Since Scanlons failed to meet its obligations on taking over management of the property, the Tribunal finds that it is not appropriate for the Respondents to be expected to pay any additional fee for their management of the situation when it became an emergency.