



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

Case Reference : **MAN/00EY/LDC/2016/0017**

Property : **1-36, Sandpipers, Rope Walk,
Congleton CW12 1HN**

Appellant : **Regalty Estates Ltd**

Respondents : **The leaseholders of the individual properties,
a list being annexed to the application**

**Type of
Application** : **Application under Section 20ZA Landlord
and Tenant Act 1985**

Tribunal Members : **Mr I James
Mr J R Rimmer (Chairman)**

Date of Decision : **28th September 2016**

DECISION

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Order : **The dispensation sought by the Applicant from compliance with section 20 Landlord and Tenant Act 1985 is granted**

Application and background

- 1 This is an application under Section 20ZA Landlord and Tenant Act 1985 seeking a dispensation from the requirement to fulfil the consultation requirements of Section 20 Landlord and Tenant Act 1985 (further clarified by the Service Charges (Consultation Requirements) (England) Regulations 2003) in relation to what are termed “qualifying works” within that section. The Application is dated 16th August 2016. It contains, amongst other things, an outline of the work likely to be required.
- 2 The works in question are repairs to the roof to the apartment block to deal with water penetration causing damage to a number of apartments within the building. In its statement of case in support of the application the Applicant points out the difficulty it faces in being able to access the roof for purposes of inspection and, in turn, the difficulties in assessing the likely costs and obtaining quotations or estimates for the remedial actions required. Scaffolding will need to be erected for this to be carried out.
- 3 The block in question is one of four storeys, constructed approximately ten years ago and containing 36 apartments. There is no means of surveying the roof from ground level and it is understood that in view of the nature of the water penetration the use of a drone for surveying purposes is not practicable.
- 4 There is a report from Wilding Roofing Limited and a quotation from them for the preliminary work required for the scaffolding and an assessment of what will then be required.
- 5 No formal objections to the application have been received from any of the leaseholders. They are appraised at regular leaseholder meetings of the situation and have been informally consulted about the process and asked to suggest contractors to carry out the required work, should they wish to do so.
- 6 Following receipt of the application by the tribunal directions for the further conduct of the matter were given by a Deputy Regional Judge of the Tribunal on 26th August 2016.

- 7 No further submissions were made to the Tribunal in the course of the Application, other than those contained in the application itself and the statement of case provided by the Applicant in response to the directions. No party has requested a hearing and as no observation of any nature have been forthcoming from any of the leaseholders. It appears to the Tribunal that any party has taken issue with the works suggested thus far and the associated assessment of what will be required.
- 8 There was nothing in the submissions to the Tribunal that provided any clarification as to how, or why this situation had arisen and whether any enquiries had been made elsewhere either as to the responsibility for repair or meeting the cost thereof. No doubt those are matters to be considered in due course by the Applicant which appears to be taking proper professional advice in relation to the works generally.
- 9 The Applicant makes the point in the application about the timescale that a formal consultation process would take and the view it takes that the formal process does not provide for the speedy action now required. Again no objection has been raised to those observations.

The Law

- 10 Section 18 Landlord and Tenant Act 1985 defines both a “service charge” and also “relevant costs” in relation to such charges whilst Section 19 of the Act limits the amount of those costs that are included in such charges to those which are reasonably incurred in respect of work which is of a reasonable standard.
- 11 Section 20 of the Act then proceeds to limit the amount of such charges that may be recoverable for what are known as “qualifying works” unless a consultation process has been complied with. By Section 20ZA of the Act qualifying works are any works to the building or other premises to which the service charge applies and the relevant costs would require a contribution from each tenant of more than £250.00.
- 12 Section 20ZA(1) particularly provides that:
“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.”
- 13 As this is an application to dispense with the need to comply with the requirements it is not necessary for the Tribunal to consider here in detail those requirements but they may be found in Regulation 6 of the Regulations referred to in paragraph 1, above.

Determination

- 14 The Tribunal determined this matter without a hearing on 28th September 2016. The Tribunal is able under Section 20ZA Landlord and Tenant Act 1985 to determine that on an application to dispense with some or all of the consultation requirements under Section 20 it is satisfied that it is reasonable to dispense with those requirements.
- 15 On the evidence available to it the Tribunal is able to make the following determinations:
 - (1) Work is required to assess the damage to the roof and clarify what remedial work is required.
 - (2) Further work will be required to effect the relevant repairs.
 - (3) The Applicant was undoubtedly in a difficult position when the work was found to be required in view of the desired timescale for repairs.
 - (4) There is nothing to suggest any objection from leaseholders as to how the Applicant has proceeded, and why. The tribunal might just observe that it would have adopted a counsel of caution and specifically circulated the leaseholders about the proposed course of action, but it appears that they are well informed as to the situation.
 - (5) Autumn is with us and weather conditions are likely to deteriorate: a speedy resolution will be of assistance.
 - (6) There is nothing apparent to the Tribunal that suggests any prejudice to the leaseholders in proceeding without a formal consultation process.
- 16 Even if the Tribunal does determine that it is appropriate to dispense with compliance with the consultation requirements this does not prejudice the future rights of any leaseholder to challenge the reasonableness of any costs incurred in respect of the relevant works under Section 27A Landlord and Tenant Act 1985 relating to the service charges for the year(s) in question.
- 17 In the circumstances the Tribunal is satisfied that it is reasonable to dispense with the requirements to comply with section 20 Landlord and Tenant Act 1985 and the Service Charges (Consultation Requirements)(England) Regulations 2003.

List of Respondents

<u>Leaseholder</u>	<u>Interest</u>
Mr C Hewitt	1 Sandpipers
Mr Bibby & Miss Mulby	2 Sandpipers
Mr Sutton	3 Sandpipers
Mr Shaw	4 Sandpipers
Ms Entwistle	5 Sandpipers
Mr & Mrs Luke	6 Sandpipers
Mr Rowley	7 Sandpipers
Mr & Mrs Evans	8 Sandpipers
Mr Hanton	9 Sandpipers
Mr Barker	10 Sandpipers
Mr C Evans	11 Sandpipers
Mrs A Piper	12 Sandpipers
The Leaseholder	12a Sandpipers
Ms K Derbyshire	14 Sandpipers
Mr & Mrs Forestier-Walker	15 Sandpipers
Mr David	16 Sandpipers
The Leaseholder	17 Sandpipers
Mr & Mrs Lythall	18 Sandpipers
Mr R Greaterix	19 Sandpipers
Mr Astbury	20 Sandpipers
The Leaseholder	21 Sandpipers
Mr Young	22 Sandpipers
Mr & Mrs Haywood	23 Sandpipers
The Leaseholder	24 Sandpipers
Ms L Griffiths	25 Sandpipers
Mr Loughlin	26 Sandpipers
Mrs Wai Ping Chu	27 Sandpipers
Mrs Alves	28 Sandpipers
The Leaseholder	29 Sandpipers
Ms Pierpoint-Thomas	30 Sandpipers
Mr Wain	31 Sandpipers
Mr Evans & Ms Sutowo	32 Sandpipers
Mr & Mrs Edge	33 Sandpipers
Ms Richards	34 Sandpipers
Mr & Mrs Pierre	35 Sandpipers
Mr & Mrs Tyler	36 Sandpipers