



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

**Case Reference** : **MAN/00BU/LDC/2018/0043**

**Property** : **244,246 & 250 Ayres Road,  
Manchester, M16 9GE**

**Applicant** : **Ayres Road Management  
Company Limited**

**Representation** : **Lynne Henry**

**Respondents** : **Various Leaseholders, see Annexe A**

**Type of Application** : **Section 20ZA of the Landlord  
and Tenant Act 1985 ('the Act')  
for dispensation from the  
consultation requirements in  
respect of qualifying works**

**Date of Application** : **17 December 2018**

**Tribunal:** : **Mrs A J Rawlence MRICS  
Mr W Reynolds MRICS**

**Date of Decision** : **22 May 2019**

**Date of Determination** : **28 May 2019**

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**DECISION**

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## DETERMINATION

**The Tribunal grants dispensation from the consultation requirements contained in section 20 of the Act and the associated Regulations in respect of the qualifying works, the subject of the Application.**

### **Reasons for the Tribunal's determination**

#### **Introduction**

1. On 17 December 2018 Lynne Henry as Head Leaseholder/Landlord and Acting Agent for Ayres Road Management Company Limited ('the **Applicant**') applied to the Tribunal ('the **Application**') for an order under section 20ZA of the Act dispensing with the consultation requirements contained in section 20 of the Act and associated regulations in respect of 244,246 and 250 Ayres Road, Manchester M16 9GE ('the **Property**'). The Respondents are the leaseholders of the 9 flats at the Property listed in Annexe A to this Decision plus the Director of Ayres Road, Management Company Limited, Mr. Richard McElvanney.
2. Section 20ZA (1) of the Act provides as follows:

*'(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 do so.'*
3. The works the subject of the Application, which had been anticipated but not commenced at the date of the Application, involved works to fire alarms, smoke detectors, emergency lighting and fire compliant door closers all following an inspection by Trafford Council on 13 September 2018. The Council listed necessary remedial works to the common areas in a letter dated 25 September 2018.
4. The Applicant requested a paper track (i.e. on the basis of the written submissions of the parties).
5. Directions were issued by the Tribunal dated 15 February 2019.
6. The Tribunal proceeded to determine the Application without an inspection as details of the works had been supplied by the Applicant and these works had been completed by 8 May 2019.

#### **The relevant lease provisions**

7. The Tribunal was provided with copies of Leases dated 9 September 2004, 7 December 2004, 24 January 2005, 31 January 2005 between Dermot Craven Developments (1), Ayres Road Management Company Ltd (2) and a Tenant (3). It is assumed that the other leases are all similar in material respects.

8. In consideration of a premium and the payment of a ground rent and the service charge, the Lease grants the Property to the Tenant for a period of 125 years from 1 January 2004.
9. Clause 1.2 defines the common parts as  
*“the entrance hall stairways landings porches and corridors in the Buildings and all driveways footpaths pedestrian areas car parking areas communal garden areas refuse disposal areas security systems boundary walls fences and gates and all other areas or things comprised in the Estate for the common use of the lessees of the flats in the Buildings.”*
10. The Tenant Covenants in Clause 6.1  
*“to pay the Service Charge to the Management Company on the days and in the manner set out in Schedule 4 by way of banker’s standing order without any deduction or set-off.”*
11. The Management Company covenants under Clause 7 of the lease to keep the common parts in good and substantial repair and (where necessary) reinstate replace and renew.
  - (i) Furthermore, in Clause 7.4  
*“to maintain all plant and equipment and other fixtures and fittings in the Common Parts in good repair and working order”.*
  - (ii) And in Clause 7.10  
*“to comply with all orders notices regulations or requirements of any competent authority under any statute which require any alteration addition modification or other work on or to .... Common Parts.*

**The Applicant's submissions**

12. Trafford Council inspected 244, 246 and 250 Ayres Road on 3 September 2018. The inspection was carried out by Mr R Firth, Environmental Health Officer and Mr Mee Fire Officer at Greater Manchester Fire & Rescue.
13. By letter dated 25 September the Council set out necessary remedial works that were to be completed with 28 days of the date of the letter.

The matters included:

Automatic Fire Detection and Alarm to Building Wide System  
 Emergency Lighting  
 Communal Means of Escape

14. On 17 December 2018 the Applicant served notice of intention under Section 20 and 20ZA of the Act as amended by the Commonhold Leasehold Reform Act to dispense with all or any of the consultation provided for by Section 20 due to urgent safety issues outlined by Trafford Council. There was insufficient time to carry out the works under the Section 20 notice period.

15. This Application was made to the Tribunal at the same time.
16. However, on 17 December 2018, the Applicant **did** serve notice under Section 20 of the Act which was followed up on 21 January 2019 when Respondents were served with a statutory notice of estimates.
17. The Tribunal has not been made aware of any responses to the notices dated 17 December 2018 and 21 January 2019. However, when works were started, it became apparent that additional works were required namely: - the installation of two consumer units to separate communal/emergency lighting from other circuits and partial rewire plus additional wiring all as detailed in the invoice from Nationwide Letting & Management Limited dated 26 April 2019.
18. The Tribunal notes that there have been no representations from the respondents.

### **The Tribunal's Determination**

19. The Tribunal was provided with convincing evidence that the work was urgent, following receipt of the report from Trafford Council.
20. The Tribunal notes that the Applicant did follow due procedure under Section 20 of the Landlord & Tenant Act 1954, after the Application was made. However, the quotation accepted from Nationwide Letting & Management Ltd for £3,795.00 was exceeded by the need for additional works.
21. It is not the concern of the Tribunal, in an application of this nature as to whether the cost was reasonably incurred. The Respondents retain the right to challenge the cost by making an application under section 27A of the Act. The question before the Tribunal is whether it is reasonable, in the circumstances of the case to dispense with the consultation requirements. The Tribunal determines that the nature of the works required are such that it is reasonable that dispensation is granted from the consultation requirements contained in section 20 of the Act as requested by the Application.
22. If either party is dissatisfied with this decision, they may apply for permission to appeal to the Upper Tribunal (Lands Chamber). Any such application must be made within 28 days of this decision (Rule 52 (2)) of The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013.

A J Rawlence MRICS – Judge.

**Schedule of Respondents**

**LEASEHOLDERS**

<b>Leaseholder</b>	<b>Property</b>
Mr P M E Crawford	Flat 1, 244 Ayres Road
Ms S Watson	Flat 2, 244 Ayres Road
Mr W Afzal & Mr M Arshad	Flat 3, 244 Ayres Road
Ms L Henry	Flat 1, 246 Ayres Road
Mr J Kaur and Mrs K Kaur	Flat 2, 246 Ayres Road
Ms L Henry	Flat 3, 246 Ayres Road
Ms L Henry	Flat 1, 250 Ayres Road
Mr J Maynard	Flat 2, 250 Ayres Road
Ms L Henry	Flat 3, 250 Ayres Road
Mr R McElvanney	Flat 3, 248 Ayres Road