



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

- Case Reference** : **MAN/00CZ/LDC/2019/0001**
- Property** : **Ledgard Bridge Mill, Ledgard Bridge,
Mirfield WF14 8NZ**
- Appellant** : **Ledgard Bridge Management Co Ltd
c/o Watson Property Management 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** : **Tribunal Judge Rimmer
Mr J Faulkner**
- Date of Decision** : **7th May 2019**
- 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.
- 2 The works in question are repairs to the AOV (automatic opening vent) system) identified by a fire detection survey of the property. Originally it was thought that the defect in the fire detection and suppression system related to the alarm, but subsequent investigation revealed the problem related to the AOV system.
- 3 The Applicant had quite properly embarked upon a consultation process in respect of the alarm and then superseded this with a further consultation in respect of the AOV system.
- 4 No formal objections to the application have been received from any of the leaseholders to this application although it is clear from the paperwork provided by the Applicant that the some of the leaseholders had engaged with the process by raising enquiries and also suggesting a contractor from which a quotation could be obtained. (That contractor had been approached and declined to estimate for the work)
- 5 The basis of the application was that having followed the consultation process the Applicant had received only one tender for the required work: the process envisaging at least two, between which a choice would be required.
- 6 Following receipt of the application by the Tribunal directions for the further conduct of the matter were given by the Regional Judge of the Tribunal on 25th February 2019.
- 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 further observation of any nature have been forthcoming from any of the leaseholders. it appears to the Tribunal that no tenant has taken issue with the need for the works and the single tendering contractor.
- 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. There is nothing to suggest that the Applicant has gone about the works in anything other than good faith.

The Law

- 9 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.
- 10 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.
- 11 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.”
- 12 The consultation process envisages a multi-stage approach by requiring:
 - (1) A notice of intention to carry out qualifying works
 - (2) The right of the leaseholders to nominate a contractor
 - (3) The need for two, or more, estimates
 - (4) The need to give reasons for the eventual choice of contractor.It is in respect only of the last of these that the Applicant seeks its exemption.

Determination

- 13 The Tribunal determined this matter without a hearing on 26th April 2019. 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.
- 14 On the evidence available to it the Tribunal is able to make the following determinations:
 - (1) Work is required to repair the AOV system.
 - (2) The work is necessary and should be completed as speedily as possible. Fire safety within blocks of flats is a critical issue.
 - (3) There is nothing to suggest any objection from leaseholders.

- (4) The Applicant appears to have done all that it could to comply with the consultation requirements and has met with a difficulty that is not of its own making.
 - (5) There is nothing apparent from the situation as it is now that would indicate any real prejudice to the leaseholders if the Applicant were able to proceed with the one estimate obtained.
- 15 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.
- 16 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.

Tribunal Judge J R Rimmer

Annex A

Mr H Y Choi
Ms E Gleghorn
Dr J Nolan
Mr D Walker
Mr GM Allen-Terry
Johnnie Johnson Housing Trust Limited
Ms S Mann
Mr & Mrs NJ & Mrs Makepeace
Mr C Ball
Mr S J Pollard
Mr & Mrs G A & C Vickers
Mr & Mrs K S & H Hill
Ms K Mellor
TD property Investment Limited
Mr S J Carter
Mr M Tariq
Miss D Bennett
Mr & Mrs D & J M Mangham
Mrs H Binks
Ms H J Binks
Mrs D Coggon
Mr B Evans
Mr NF Baldwin
Mr & Mrs N A & A Hussenbux
Miss A M Ruddy
Ms D N Inman & B Walmsley
Mr & Mrs G M & S A Sandom
Mr J D Heaton & H J Hughes
Ms V Maher
Ms C Docherty
Ms Schofield
Mr & Mrs S & N Foster
Mrs L J Ward
Mr Iann Ward
Mrs M R Broomhead
Mr GM Robinson
Mr & Mrs D & V Wright
Mr & Mrs J & C Endicott
Mr T Kneller
Mr & Mrs S J & G L Ferns
Mrs H L Davies & Mr J M Davies
Mr D N Kenyon
Mr & Mrs M J & CE Bateson
Mr M S Ervine
Mr S Denton

Mr J Quinn
Mr & Mrs R & K Graham
Miss K J Woodhouse
Ms M M Robinson
Mr G Durow
Mr & Mrs B S & J K Dhillon
Mr C Deehan
Mr M J Chambers
Mrs S Brown
Mr J McDowell
Rev C T Maddock
Mr P D Hargreaves
Mr & Mrs GD Richardson & Mrs SL Richardson
Mr R J Hartley
Mr J P Haines
Mr & Mrs NS & L Haycock
Mr & Mrs S & D Millar
Ms S J E Rogers & Mr J M Broscombe
Rev A J Dryburgh
Mrs R H Bairstow
Ms Y P McGowan & S A McGranaghan
Mr S D Pocock & K Pocock
Ms S C Jackson
Mr B J Preston
Mr A D Norton
Mr E Alexandrakis
Mr & Mrs C R & V J Hilton
Ms E L Warren
Mr & Mrs AS & HK Dhillon
Ms J S Kameen
Mr S Turner
Mr M Aslam
Mrs K L Ervine
Mr A Bambrough
Mr K B Walker
Mr R A G Alcock
Mr P J Metcalfe
Mr & Mrs W & M Grace
Ms H E Sharpley
Mr M V Burke
Mr & Mrs G & R Wolff
Mr R Brown
Ms T K Lawrence & Mr P C Nwosu
Mr T J Harris
Mr J Johnson
Mr J S Kundi
Ms K J Blundell & Mr N J Dance

Mr & Mrs C & M Hartley
Mr & Mrs A & P Wilson
Mr C J Garvey
Mr S C McIntyre
Mr R J Fellows
Ms C S Pyott
Opera Properties Limited
Mr D I Dryburgh