



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

Case Reference : **MAN/30UK/LDC/2019/0030**

Property : **Saddle Lodge
Fir Trees Place
Ribbleton
Preston
PR2 6FN**

Applicant : **Places for People Homes LTD**

Representative : **RMG**

Respondents : **The leaseholders of the Property
(see Annex)**

Type of Application : **Landlord and Tenant Act 1985
- section 20ZA**

Tribunal : **Judge J Holbrook**

**Date and venue of
Hearing** : **Determined without a hearing**

Date of Decision : **30 September 2019**

DECISION

DECISION

Compliance with the consultation requirements of section 20 of the Landlord and Tenant Act 1985 is dispensed with in relation to remedial works to the roof of the Property.

REASONS

Background

1. On 26 June 2019, an application was made to the First-tier Tribunal (Property Chamber) (“the Tribunal”) under section 20ZA of the Landlord and Tenant Act 1985 (“the Act”) for a determination to dispense with the consultation requirements of section 20 of the Act. Those requirements (“the consultation requirements”) are set out in the Service Charges (Consultation Requirements) (England) Regulations 2003 (“the Regulations”).
2. The application was made on behalf of Places for People Homes Ltd, the landlord of Saddle Lodge, Fir Trees Place, Ribbleson, Preston PR2 6FN (“the Property”).
3. The Respondents to the application are listed in the Annex to this decision. They are the leaseholders of the 8 residential maisonettes which comprise the Property.
4. The only issue for the Tribunal to determine is whether or not it is reasonable to dispense with the consultation requirements.
5. The works in respect of which a dispensation is sought concern urgent works to remedy defects to the roof of the Property.
6. On 25 July 2019, the Tribunal issued directions and informed the parties that, unless the Tribunal was notified that any party required an oral hearing to be arranged, the application would be determined upon consideration of written submissions and documentary evidence only. No such notification was received, and I have therefore determined the application on the papers in the absence of the parties. Documentary evidence in support of the application was provided by the Applicant. No submissions were received from any of the Respondents.
7. I did not inspect the Property.

Grounds for the application

8. The Applicant’s case is that, following storm damage to the roof of the Property earlier this year, contractors attended to replace slipped and broken roof tiles. The cost of those works would be covered by buildings insurance. However, it was then discovered that similar problems would

likely recur unless a dry ridge system was put in place on both roof verges. This needed to be done before the storm damage was repaired. The cost of the additional preventative works is £2,812.89 plus VAT, but this will not be covered by the insurance claim. The Applicant says that all the works need to be carried out without delay in order to minimise the risk of further damage to the Property caused by water penetration.

Law

9. 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.

10. 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 section 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.

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

12. 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.

13. 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.

Conclusions

14. The Tribunal must decide whether it is reasonable for the works to go ahead without the Applicant first complying with the consultation requirements. Those requirements are intended to ensure a degree of transparency and accountability when a landlord (or management company) decides to undertake qualifying works – the requirements ensure that leaseholders have the opportunity to know about, and to comment on, decisions about major works before those decisions are taken. 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.
15. It follows that, for it to be appropriate to dispense with the consultation requirements, there needs to be a good reason why the works cannot be delayed until the requirements have been complied with. The Tribunal must weigh the balance of prejudice between, on the one hand, the need for swift remedial action to ensure that the condition of the Property does not deteriorate further and, on the other hand, the legitimate interests of the leaseholders in being properly consulted before major works begin. It must consider whether this balance favours allowing the works to be undertaken immediately (without consultation), or whether it favours prior consultation in the usual way (with the inevitable delay in carrying out the works which that will require). The balance is likely to be tipped in favour of dispensation in a case in which there is an urgent need for remedial or preventative action, or where all the leaseholders consent to the grant of a dispensation.
16. I am satisfied that in the particular circumstances of the present case, there is a clear need for urgent action to be taken in order to minimise the risk of further damage to the Property and resulting inconvenience for its residents. I note that the Respondents have been informed of the proposal to carry out the works and that none of them have objected. There is no evidence that the Respondents have been prejudiced to date by the lack of opportunity to be consulted about the works. The balance

of prejudice therefore favours dispensing with the consultation requirements.

17. The fact that I have granted dispensation from the consultation requirements should not be taken as an indication that I consider that the amount of any anticipated service charges resulting from the works is likely to be reasonable; or, indeed, that such charges will be payable by the Respondents. I make no findings in that regard.

Judge J Holbrook
30 September 2019

ANNEX

LIST OF RESPONDENTS

Property	Leaseholder
Flat 1	Mr A Butkus and Miss R Seselskiene
Flat 2	Mr N Mazik
Flat 3	Mr M Thomas
Flat 4	Mr G Borland
Flat 5	Miss K Mati and Mr T Sandor
Flat 6	Mr I Potts
Flat 7	Mr Z and Mrs B Ipac
Flat 8	Mr N Bekele