



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

**Case Reference** : **MAN/00BN/LDC/2020/0059 P**

**Property** : **14, 16 & 18 Circular Road  
Withington  
Manchester  
M20 3LP**

**Applicant** : **Circular Road Management Ltd**

**Representative** : **Keebles LLP**

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

**Representative** : **N/A**

**Type of Application** : **For dispensation of the statutory  
consultation requirements:  
Landlord and Tenant Act 1985  
- section 20ZA**

**Tribunal Members** : **Judge J Holbrook  
Regional Surveyor N Walsh**

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

**Date of Decision** : **27 April 2021**

**DECISION**

## DECISION

**Compliance with the consultation requirements of section 20 of the Landlord and Tenant Act 1985 is dispensed with in relation to fire safety works required by Greater Manchester Fire and Rescue Authority.**

## REASONS

### Background

1. On 17 December 2020, 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 by Circular Road Management Limited and relates to premises known as 14, 16 & 18 Circular Road, Withington, Manchester M20 3LP (“the Property”). The Applicant is the landlord under the long leases of the residential apartments within the Property. The Respondents to the application are the long leaseholders of those apartments. A list of the Respondents is set out in the Annex hereto.
3. The only issue for the Tribunal to determine is whether or not it is reasonable to dispense with the consultation requirements.
4. The works in respect of which a dispensation is sought concern fire safety works required to remedy inadequate compartmentation within the Property and the installation of an automatic fire detection and alarm system within the common parts. We understand that the works have now been completed: the cost of the compartmentation works was £9,360 and the cost of the fire alarm installation was £14,882.51.
5. Each of the Respondents has been given notice of the application and has been sent a copy of the Applicant’s supporting evidence. None of the Respondents has submitted a response to the application and we have determined this matter following a consideration of the Applicant’s case, but without holding a hearing. Rule 31 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 permits a case to be dealt with in this manner provided that the parties give their consent (or do not object when a paper determination is proposed). In this case, the Applicant has given its consent and the Respondents have not objected. Moreover, having reviewed the case papers, we are satisfied that this matter is indeed suitable to be determined without a hearing: although the Respondents are not legally represented, the application is unopposed and the issues to be decided are readily apparent.

6. The Tribunal did not inspect the Property but we understand it to comprise two semi-detached four storey blocks of flats, constructed in the early 1900s and converted into 13 apartments around 2000.

### **Grounds for the application**

7. The Applicant's case is that, in October 2020, Greater Manchester Fire and Rescue Service served a prohibition notice in respect of the Property on the grounds that it had inadequate means of escape and inadequate means of raising the alarm in the event of a fire. The notice prohibited use of the Property, other than for the purpose of carrying out remedial works. Subsequent fire risk assessment surveys identified inadequate compartmentation and the need for an automatic fire detection and alarm system to be installed. The Applicant submits that, in order for the prohibition notice to be lifted, it was necessary to proceed with these works urgently and without undertaking a formal consultation exercise with the leaseholders.

### **Law**

8. 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.*

9. 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.*

10. "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).

11. 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.*

12. 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**

13. The Tribunal must decide whether it was 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 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.
14. In deciding whether to dispense with the consultation requirements in a case where qualifying works have been commenced or completed before the Tribunal makes its determination, the Tribunal must focus on whether the leaseholders were prejudiced by the failure to comply with the consultation requirements. If there is no such prejudice, dispensation should be granted.
15. In the present case, the works concerned were clearly of an urgent nature, and there is no evidence that the Respondents have been prejudiced by the lack of compliance with the consultation requirements: none of the Respondents have argued that they were prejudiced and none have objected to the application for dispensation.

16. We therefore conclude that dispensation should be granted. The fact that the Tribunal has granted dispensation from the consultation requirements should not be taken as an indication that we consider that the amount of the anticipated service charges resulting from the works is likely to be reasonable; or, indeed, that such charges will be payable by the Respondents. We make no findings in that regard.

Signed: J W Holbrook  
Judge of the First-tier Tribunal  
Date: 27 April 2021

**ANNEX**  
**(List of Respondents)**

Miss S Nayeri  
Ms L Gartside  
Mr L P Dally  
Mrs J Dogherty  
Mr A Baker  
Mr M J Whittaker  
Mrs A C C Abbott  
Mr A C Baron  
Mr S P Bates  
Baraka Developments Ltd  
Mr W She & Mr Q Wu  
Ms J Drayton  
Mr & Mrs K Hilditch