



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

Case Reference : **MAN/OODA/LDC/2021/0003**

Property : **67 Clarendon Road, Leeds LS2 9DR**

Applicant : **Montague Weston Investment Plc**
Representative : **Inspired Property Management Limited**

Respondents : **Leaseholders of apartments at the Property (see Annex A)**

Type of Application : **Landlord & Tenant Act 1985 – Section 20ZA**

Tribunal Member : **Laurence Bennett (Tribunal Judge)**

Date of determination : **16 April 2021**

Date of Decision : **20 April 2021**

DECISION

Application

1. Montague Weston Investment Plc applies to the Tribunal under Section 20ZA of Landlord and Tenant Act 1985 (the Act) for dispensation from the consultation requirements of Section 20 of the Act and the Service Charges (Consultation Requirements)(England) Regulations 2003 (SI 2003/1987) in respect of roof work requiring scaffolding at 67 Clarendon Road, Leeds LS2 9DR (the Property).
2. The Respondents are Residential Leaseholders of apartments at the Property.

Grounds and Submissions

3. The application was received by the Tribunal on 21 January 2021.
4. The Applicant is the Freeholder and Successor to the Lessor of the leases of the apartments at the Property. The Respondents are the Lessees or Successors to the leases of the apartments at the Property.
5. On 18 February 2021 Regional Surveyor Walsh made directions which required the Applicant to serve a copy of the application documents on each Respondent. The directions provided that in the absence of a request for a hearing the application would be determined upon the parties' written submissions and evidence.
6. The Property is described as a period property built circa 1900 converted into 9 apartments.
7. The Applicant's statement reports that work was required in respect of a roof leak into apartment 6 "which was causing considerable damage to the internal areas and affecting the electrics, meaning the property was without electric during periods of rain."
8. Further information provides details of the work required to track and trace, scaffolding for access to complete inspection and repairs. A quotation was received. It is stated that the work has successfully been completed.
9. Copy correspondence to Leaseholders dated 9 December 2020 gave notice of the work and opportunities to inspect a description and make observations on the proposals. Additional correspondence indicates urgency in the work and the application for dispensation.
10. The Applicant has provided a copy of the inspection report and quotation and confirmation that this application has been served. An explanation of the work is given with reasons for urgency "The works were instructed in order to ensure the property remained habitable and safe for the residents and to mitigate the loss for insurance purposes."
11. The Tribunal did not receive submissions from a Respondent nor a request for an oral hearing.
12. The Tribunal convened without the parties to make its determination on 16 April 2021.

Law

13. Section 18 of the Act defines “service charge” and “relevant costs”.
14. Section 19 of the Act limits the amount payable by the lessees to the extent that the charges are reasonably incurred.
15. Section 20 of the Act states:-
“Limitation of service charges: consultation requirements
Where this Section applies to any qualifying works..... the relevant contributions of tenants are limited..... Unless the consultation requirements have either:-
 - a. complied with in relation to the works or
 - b. dispensed with in relation to the works by a leasehold valuation tribunal.This Section applies to qualifying works, if relevant costs incurred on carrying out the works exceed an appropriate amount”.
16. “The appropriate amount” is defined by regulation 6 of The Service Charges (Consultation Requirements) (England) Regulations 2003 (the Regulations) as “..... an amount which results in the relevant contribution of any tenant being more than £250.00.”
17. Section 20ZA(1) of the Act states:-
"Where an application is made to a 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."

Tribunal's Conclusions with Reasons

18. I considered the written evidence accompanying the application.

My conclusions are:-
19. It is not necessary for me to consider at this stage the extent of the service charges that would result from the works payable under the terms of the Respondents' leases. If and when such is demanded and if disputed, it may properly be the subject of a future application to the Tribunal.
20. I accept from the details of the roof defect, work described and the observed consequences of water ingress that it was necessary for repairs to commence without delay. The lack of repair had an impact on the health, safety, utility and comfort of occupiers and visitors to the apartments at the Property.
21. Although no formal consultation has been completed, I have not identified a specific prejudice to them in the circumstances. A quotation was provided. Dispensation from consultation requirements does not imply that the resulting service charge is reasonable.
22. I conclude it reasonable in accordance with Section 20ZA(1) of the Act to dispense with the consultation requirements, specified in Section 20 and contained in Service Charges (Consultation Requirements)(England) Regulations 2003 (SI 2003/1987).

23. Nothing in this determination or order shall preclude consideration of whether the Applicant may recover by way of service charge from the Respondents any or all of the cost of the work undertaken or the costs of this application should a reference be received under Section 27A of the Landlord and Tenant Act 1985.

Order

24. The Applicant is dispensed from complying with the consultation requirements in respect of the work specified in the application.

**L J Bennett
Tribunal Judge
16 April 2021**

Annex A

Dr MH Hussain
Mr R Lewis
Ms JM Adams
Mr J Aughwaine & Ms A Aughwaine
Mr S Thorpe
Ms HA Relf
Mr GT Dyson & Ms KE Edmunds
Pinnacle Point Limited