



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

Case Reference : **MAN/00BM/LDC/2022/0018**

Property : **Flats 1 to 12 and 14 to 19 Meadow Heights, Off Fir Street, Ramsbottom, Bury, BLO 0BN**

Applicant : **Great Places Housing Association**

Respondents : **The Residential Leaseholders of the Property (See Annex)**

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

Tribunal Member : **Judge Bennett**

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

Date of Decision : **14 October 2022**

DECISION

DECISION

Compliance with the consultation requirements of section 20 of the Landlord and Tenant Act 1985 is dispensed with in relation to works comprising the erection of scaffolding, a full inspection, the completion of a drone survey, and remedial works at the Property. A more detailed description of these works is given in paragraph 4 below.

REASONS

Background

1. On 8 March 2022, 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 Great Places Housing Association and relates to premises known as Flats 1 to 12 and 14 to 19 Meadow Heights, Off Fir Street, Ramsbottom BLO 0BN (“the Property”). The Applicant is the landlord of 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 dispensation is sought comprises the erection of scaffolding, a full inspection, the completion of a drone survey, and remedial works at the Property. The remedial works include the replacement of the tiles to flat 12, the replacement of the flat roof of flat 14 and the replacement of timber at flat 15.
5. I gather that each of the Respondents have been given notice of the application and afforded the opportunity to view the Applicant’s supporting evidence. They have also been provided with a copy of the case management directions issued by the Tribunal on 20 July 2022. The Applicant complied with paragraph 5 of the directions and sent a paper copy of their bundle of documents to each Respondent on 28 July 2022. The directions subsequently required any Respondent who opposed the application to notify the Tribunal of their objection within 21 days of receipt of these documents. No such notification has been received.
6. I 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, I am 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.

7. The Tribunal did not inspect the Property, but I understand it to comprise two purpose-built blocks connected by a continuous roof structure, with an underpass leading to a rear car park and small communal garden areas. The blocks contain eighteen flats in total and are up to three storeys, with brick walls and pitched tile roof construction.

Grounds for the application

8. According to the Applicant, in December 2021 they received reports received that the roof of the Property had been subject to leaks, which affected multiple flats and resulted in water ingress and subsequent damage. The Applicant's case is that during the time of the leaks, adverse weather conditions were apparent, which enhanced the need for urgent remedial action to the roof. It is argued that the residents affected by the leak were very keen for remedial action to be taken without delay.
9. The Applicant advises that they instructed a contractor to inspect the Property and obtained two quotes for the required works to prevent further damage to the building and individual units. The quote from Roof Master (Rochdale) Limited amounted to £3,192 for scaffolding and an inspection, and the quote provided by Cheshire Property Reliance Limited (CPR) amounted to £4650 for an inspection using a drone, the cost of erecting scaffolding and some additional works also. The Applicant submits that they decided to instruct CPR as their quote was the most cost effective. The Applicant highlights that the cost of erecting the necessary scaffolding and conducting a drone survey to determine the recommended remedial work would require a section 20 consultation to be completed, before accounting for any remediation costs also. An application was therefore made to the Tribunal seeking dispensation of the consultation requirements.
10. It is submitted that while a full section 20 consultation was not initiated, in the week commencing 28 February 2022, correspondence was issued to all leaseholders to provide an update on the works and of the likely costs. Furthermore, the Applicant has evidenced that a notice of intention was sent to all leaseholders of Meadow Heights on 3 March 2022. The Applicant intends to seek to recover these costs from the leaseholders by means of the Property's existing service charge and sinking fund with no additional levy to be charged. The Tribunal has been advised that all remedial works have now been completed and

therefore the Applicant seeks retrospective dispensation for the work completed to date.

Law

11. 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.

12. 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.

13. “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).

14. 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.

15. 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

16. The Tribunal must decide whether it was reasonable for the works to go ahead without the Applicant first complying with the full 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. They also ensure that leaseholders are protected from paying for inappropriate work, or from paying more than would be appropriate for necessary work. 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.
17. It follows that, for it to be appropriate to dispense with the consultation requirements, there needs to be a good reason why the works could not be delayed until the requirements had 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 occupiers of the Property are not placed at undue risk 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.
18. I accept from the details provided that in the present case, the works required at the Property were urgent and have now been completed. It is apparent that failure to remedy the cause of the leaks could have caused further damage to the Property. In reaching this decision, I have had regard to the fact that no objections were raised by the Respondent leaseholders when provided the opportunity to and since the Applicant obtained competitive estimates for the costs of the works before deciding to proceed, there is no evidenced or apparent prejudice. I therefore have

no hesitation in concluding that retrospective dispensation should be granted.

19. Nevertheless, the fact that the Tribunal has granted dispensation from the consultation requirements should not be taken as an indication that I 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. I make no findings in that regard.

Signed: L Bennett
Judge of the First-tier Tribunal
Date: 14 October 2022

ANNEX

List of Respondents

Mr P Hall & Mrs RJ Hall
L Mission
Mrs M. S. Pilkington & Mr Sean
Ms H Greene
Mrs J Mason
Mr D Gunatnunga
Ms K Knighton
Mr Alan Chester
Mrs L Gorton
Ms A Wright
Mrs M Hoyland
Mrs K Brewer
Mr A Mason
Mrs C Orrell & Ms LS Stear
Mr J S Turner
Mrs S M Maclaine
Mr M Crowther
Ms JA Howard