

**HM COURTS & TRIBUNALS SERVICE
LEASEHOLD VALUATION TRIBUNAL**

**DECISION OF THE LEASEHOLD VALUATION TRIBUNAL
OF THE NORTHERN RENT ASSESSMENT PANEL**

LANDLORD AND TENANT ACT 1985

Section 20ZA

Property: Lancaster 80, 80 Princess Street
Manchester M1 6NF

Applicant: Lancaster 80 Management Company Limited

Applicant's Representative: Revolution Property Management Limited

Respondents: Leaseholders at the Property

Tribunal: L. J. Bennett (Chairman)
E. Thornton-Firkin

Date of Determination: 9 April 2013

Application

1. The Applicant 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 in the Service Charges (Consultation Requirements)(England) Regulations 2003 (SI 2003/1987) in respect repairs to eliminate water ingress to the Property.
2. The Respondents are individual Leaseholders of Apartments at the Property.

Grounds and Submissions

3. The application was received by the Tribunal on 22 February 2012. The Respondents are listed in an annex to the application.
4. On 28 February 2013 a Vice President of the Tribunal as Procedural Chair, made directions which provided that in the absence of a request by any party for an oral hearing the application would be determined without a hearing. Neither the Applicant nor a Respondent requested a hearing.

5. The Property is described in the application form as a converted cotton store consisting of 41 apartments and three floors of parking. There is a public house occupying the ground floor.
6. The Applicant stated in the application form that a specialist leak detection company repaired areas of water ingress in December 2011 but in January 2013 leaks recurred. Inspection required scaffolding to a turret construction on the top floor of the apartment block. The building is over 100ft high. Inspection revealed that the tower required repointing to stop future water ingress. The scaffolding is specialist and is rented weekly. As a result work was commenced and retrospective consent sought.
7. Further information provided within the application gives details of the work and costs including the cost of bringing this application to the Tribunal.
8. The Applicant stated that: "No consultation has been undertaken as the issue was urgent given the water leaking into the apartment below." Dispensation is sought as it was necessary to minimise the damage to the apartment below the turret, delay would have meant further damage to the apartment below and continuing scaffold hire costs.
9. None of the Respondent Leaseholders has responded in compliance with directions.
10. The Tribunal convened without the parties to make its determination on 9 April 2013.

Law

11. Section 18 of the Act defines "service charge" and "relevant costs".
12. Section 19 of the Act limits the amount payable by the lessees to the extent that the charges are reasonably incurred.
13. 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".
14. "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."
15. Section 20ZA(1) of the Act states:-
 "Where an application is made to a leasehold valuation 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

16. We considered the written evidence accompanying the application.

Our conclusions are:-

- 17. It is not necessary for us to consider at this stage whether an allowable service charge would result from the works within the terms of the Leaseholders' leases. If and when such is demanded and if disputed, it may properly be the subject of a future application to the Tribunal.
- 18. We accept from the nature of the works that it is necessary for them to commence without delay. They clearly impact on the health, safety and comfort of occupiers and preservation of the Property.
- 19. We 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), in respect of the proposed works.
- 20. Nothing in this determination or order shall preclude consideration of whether the Applicant may recover by way of service charge from the Respondent Leaseholders any or all of the cost of the works undertaken or the costs of this application should a reference be received under Section 27A of the Landlord and Tenant Act 1985.

Order

- 21. The Applicant is dispensed from complying with the consultation requirements with the Respondent Leaseholders in respect of the works referred to in the application.

**L J Bennett
Chairman
9 April 2013**