



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

**Case Reference** : **MAN/00CJ/LSC/2015/0031**

**Property** : **46 Pink Lane, Newcastle upon Tyne NE1 5DY**

**Applicant** : **Dr. Rajinder Mander**

**Representative** : **(unrepresented)**

**Respondent** : **Places for People**

**Representative** : **(unrepresented)**

**Type of Application** : **Application under section 27A (and 20C) of the  
Landlord and Tenant Act 1985**

**Tribunal Members** : **Mr S Moorhouse LLB (Chairman)  
Mr IR Harris BSc FRICS**

**Date and venue of  
Hearing** : **22 June 2015, Manorview House, Kings  
Manor, Newcastle upon Tyne NE1 6PA**

**Date of Decision** : **2 July 2015**

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**INTERIM DECISIONS and STAY OF PROCEEDINGS**

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## **Background**

1. The application ('the Application') is made under section 27A (and section 20C) of the Landlord and Tenant Act 1985 ('the Act'). On 22 June 2015 the Tribunal inspected the Property and the surrounding estate and convened a hearing following which the Tribunal has decided to issue these interim decisions and to stay the proceedings.
2. A full decision document including full reasons for the Tribunal's interim decisions will be issued prior to the final disposal of the proceedings.

## **Scope of Application**

3. The Application relates to certain costs associated with major works to the building in which the Property is situated and the remainder of the Clayton Street West Estate. In preparing his statement of case the Applicant has challenged additionally his liability to contribute to certain routine service charge items, namely communal furniture and equipment, communal cleaning, laundry equipment and communal light and power.
4. The Tribunal Orders that the Application is amended to encompass the issues concerning routine service charges set out within the Applicant's statement of case.

## **Section 20 Consultation**

5. The Tribunal has considered challenges raised by the Applicant concerning the adequacy and fairness of the consultation process adopted by the Respondent in relation to certain major works carried out by the Respondent at a final cost of £15,666.43 per flat.
6. The Tribunal finds that the Respondent was correct to conduct a consultation exercise under Schedule 2 of the Service Charges (Consultation etc) (England) Regulations 2003 ('the Regulations') prior to entering into a Term Partnering Contract with its contractor Keepmoat. The Tribunal also finds that the Respondent was correct to conduct a consultation exercise under Schedule 3 of the Regulations prior to concluding an agreement under the terms of the Term Partnering Contract for the carrying out by Keepmoat of the major works in question.
7. However the Tribunal finds that the latter consultation exercise was not conducted in compliance with the Regulations. The Applicant complains, amongst other things, that whilst he raised observations with the Respondent concerning the proposed works by e-mail on 26 August 2014, he did not receive a response until receiving a letter dated 24 October 2014. The Respondents point out that the notice inviting observations stated "*We will not be responding to formal individual enquiries through our email address until after the expiry of the 30 days notice period. We will then consider the responses received and provide full feedback to all leaseholders after the 6th September 2014*". The Respondents also state that the time taken to write to leaseholders was influenced by the large volume of observations received.

8. Paragraphs 3 and 4 of the Regulations provide:

*'3. Where, within the relevant period, observations are made in relation to the proposed works or the landlord's estimated expenditure by any tenant..... the landlord shall have regard to those observations.*

*4. Where the landlord receives observations to which (in accordance with paragraph 3) he is required to have regard, he shall, within 21 days of their receipt, by notice in writing to the person by whom the observations were made, state his response to the observations.'*

9. Where the consultation requirements set out in the regulations have not been complied with, then unless the requirements have been dispensed with by the Tribunal, section 20 of the Act operates so as to limit the contribution that may be charged to any tenant to the amount prescribed or determined by regulation, currently the amount of £250.

10. The Tribunal determines therefore that the contribution payable by the Applicant in respect of the major works is limited to the amount of £250. Should an application be made by the Respondent for dispensation pursuant to section 20ZA such application would be considered by the Tribunal on its merits in accordance with the Act.

### **Routine Service Charge Items**

11. The Tribunal has heard the parties' arguments concerning the Applicant's liability to contribute to certain routine service charge items, namely communal furniture and equipment, communal cleaning, laundry equipment and communal light and power.

12. The Tribunal finds that the charges in question relate in part to the communal parts of the 'Block' defined in the Applicant's lease, being costs which under the terms of the lease are to be divided equally by reference to the number of flats in the Block and, are in part attributable to costs relating to communal parts of the wider Clayton Street West Estate to which the Applicant is required to contribute under the terms of his lease.

13. The Applicant does not challenge the reasonableness of the charges themselves, only his liability to contribute under the terms of the lease. Accordingly the Tribunal finds in favour of the Respondent on this issue.

### **Stay of Proceedings**

14. Since the remaining service charge issues raised by the Applicant only become relevant should the Respondent apply successfully for dispensation of consultation requirements, the Tribunal Orders a stay of the proceedings. The section 20C costs application will be determined by the Tribunal prior to the final disposal of proceedings.