



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

Case Reference : **MAN/00BN/LDC/2019/0004**

Property : **Montana House, 136 Princess Street,
Manchester M1 7EN**

Applicant : **Medlock Management Company Limited**

Respondents : **Leaseholders of the Properties**

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

Tribunal Members : **Judge C Wood
Judge L Bennett**

Date of determination : **10 May 2019**

Date of Decision : **28 May 2019**

DECISION

Order

1. The Tribunal orders that, under section 20ZA of the Landlord and Tenant Act 1985, (“the 1985 Act”), dispensation is granted to the Applicant from compliance with the consultation requirements in respect of the works specified in the application.

Application

2. Medlock Management Company Limited apply 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 fire related work in respect of cladding at the Property.
3. The Respondents are the individual Residential Leaseholders of apartments at the Property.

Grounds and Submissions

4. The application was dated 29 January 2019.
5. The Applicant has responsibility for the management of the Property in accordance with the Leaseholders' Leases.
6. On 12 March 2019 the Tribunal made directions relating to service of the application and arrangements for a response. It was directed that in the absence of a request for an oral hearing the application would be determined upon the parties' written submissions without a hearing.
7. The Property is described in the application as a purpose-built apartment block built over 11 stories with 2 lifts. The majority of the apartments are 2—bedroomed, some with balcony access. The building was completed in or about 2004.
8. The Applicant states in the application form that "The works required...are due to mitigating issues with sections of the building having cladding problems. The alarm system will be started within the next 4 weeks so this may be before this gets to tribunal hearing...as of today (29/01/2019) they [the works] have not [been started]". The Applicant also states that "...we recommend the quote from Aarhus Fire of £25,633.00 + vat".
9. The Applicant states that the work is urgent for the reasons set out above because of the time limits within the improvement notices and the impact of health and safety requirements."
10. In accordance with the directions, the Applicant has provided copies of the Fire Alarm report dated 22 November 2018, ("the Report"), carried out by SPL Fire Safety Limited and of two quotations obtained, one from Aarhus Fire Protection Limited and the other from Franco Fire Detection Limited. The report states that, in the authors' opinion, (1) a "waking watch" is not a suitable or sufficient option for the Property due to its height and the number of apartments; and (2) the installation of a new alarm system (including a multi sensor detector in every flat entrance hall, manual call points on every floor and the fire alarm linked to a remote call centre) is "a far more efficient way to alert persons within the premises"; and (3) "the fire alarm to be installed should be considered as a temporary solution and to be in place as an interim measure until, the flammable insulation can be removed".
11. The Tribunal has not received submissions or an acknowledgement from any of the Respondents.
12. Neither the Applicant nor a Respondent requested a hearing.
13. The Tribunal convened without the parties to determine the application on 10 May 2019.

Law

14. Section 18 of the Act defines "service charge" and "relevant costs".
15. Section 19 of the Act limits the amount payable by the lessees to the extent that the charges are reasonably incurred.

16. 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 the First Tier Tribunal
This Section applies to qualifying works, if relevant costs incurred on carrying out the works exceed an appropriate amount”.
17. “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.”
18. 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

19. We considered the written evidence accompanying the application.
Our conclusions are:-
20. It is not necessary for us to consider the extent of the service charge payable by the Respondents that has resulted from the work. If disputed when demanded an application may be made to the Tribunal under Section 27 of the 1985 Act.
21. We accept the conclusions of the Report that, until the cladding has been removed, additional fire precaution measures are necessary at the Property to mitigate the potential impact on the health, safety, utility and comfort of occupiers and visitors to the apartments and common parts at the Properties, and that the introduction of a waking watch is not an appropriate option.
22. There has been no response to the application from any Respondent. We have not identified a specific prejudice to Leaseholders in the circumstances. Dispensation from consultation requirements does not imply that the resulting service charge is reasonable.
23. We conclude that it is reasonable in accordance with Section 20ZA(1) of the 1985 Act to dispense with the consultation requirements, specified in Section 20 and contained in Service Charges (Consultation Requirements)(England) Regulations 2003 (SI 2003/1987) whether prospective or retrospective.
24. 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 works undertaken or the costs of this application should a reference be received under Section 27A of the 1985 Act.

Annex A

Mr Lee Freegard
Mr John Porter
Mr Amtaz Hussain
Mr & Mrs D & J Quigley
Mr W Xiao & Ms Z Zhu
Koon Mui Law
Lai Fa Cheuk
Kwai Wo Chan
Mr & Mrs J & V Dunne
Mr & Mrs M & P Mannion
Yan Tung Chow
Ms Jenny Wang
Mr & Mrs B & R Singh Bassi
Xiongfei Wang
E & D Fairfold
Mr & Mrs W & S Wong
Ms S Waddington
Mr Paul Shaw
Mr Francesco Vinaccia
Ms F Staniland
Ms A Littlewood
Mr & Mrs F & M Haugh
Mrs Wai Yee Tse
Mr C McCarthy
Mr Eric Wong
Mr Hui Lei
Mr Stuart Jackson & Daire Gilmore
Mr Colum McGarrity
Mr Xiaosong Ge
Mr & Mrs M & J Tsui
Ling Li
Mr T Cullen & Mr C Millington
Mr & Mrs G & M Steeples
Mr & Mrs L & J Baines
Mr Gregory Ness & Thi Truong
Mr & Mrs J & W Queally
Mr Haidy Tse
Mr Morgan Wheelan
Mr W Zhang
Gillian Hegarty
Mr & Mrs D & J Hicks
Mr S Shi
Mr Peter Carr
Mr P O'Brien
Mr R O'Reilly
Mr W Queally
Mr A O'Donoghue
Ms L McMahan
Mr D Hicks & Mr Hicks