



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

Case Reference : **MAN/OOCX/LDC/2019/0037**

Property : **Towpath House, 10 Canal Road,
Riddlesden BD20 5AG**

Applicant : **Towpath House Riddlesden Management
Company Limited**

Applicant's representative : **Inspired Property Management**

Respondents : **Leaseholders of residential flats at the
Property**

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

Tribunal Members : **Laurence Bennett (Deputy Regional Judge)
Niall Walsh (Deputy Regional Valuer)**

Date of determination : **28 October 2019**

Date of Decision : **29 October 2019**

DECISION

Application

1. Towpath House Riddlesden Management Company Limited 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 work to the lift at Towpath House, 10 Canal Road, Riddlesden BD20 5AG (the Property).
2. The Respondents are Leaseholders of flats at the Property.

Grounds and Submissions

3. The application was received by the Tribunal on 12 September 2019.
4. The Applicant is the Management Company named in the Respondents' Leases.
5. On 18 September 2019 Deputy Regional Judge Holbrook made directions which provided that in the absence of a request for a hearing the application would be determined upon the parties' written submissions.
6. The Property is a converted mill, adjacent to a canal now comprising 32 Leasehold residential flats with one passenger lift, one pump set and one water tank.
7. The Applicant stated in the application form that the passenger lift has had an increasing frequency of breakdowns during 2018 leading to residents being trapped and distressed. The work is required to address the issues.
8. Further information gives an itemised list of work to install a new control system, an estimate and options for the repairs.
9. The Applicant states that a Section 20 Consultation Letter was issued on 5 September 2019. A copy has been provided with Leaseholder correspondence.
10. The Applicant states that the lack of a lift in working order affects the ability of some of the residents to leave their flats. There is no other lift and the only other means of access is stairs. It mentions the effect on the elderly and residents with mobility issues.
11. In accordance with directions the Applicant has provided a sample Lease, copy lift report and a statement of case which identifies that the lift is approximately 15 years old and explains the tender and quotation exercise. The application has been made because of urgency and concern for the residents which requires action before the consultation process can be completed.
12. The Tribunal did not receive submissions from a Leaseholder in accordance with directions.

13. The Tribunal convened without the parties to make its determination on 28 October 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 a leasehold valuation 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 at this stage the extent of the service charges that would result from the works payable under the terms of the Respondent’s leases. If and when such is demanded and if disputed, it may properly be the subject of a future application to the Tribunal.
21. We accept from the details of the work proposed and the obvious consequences of lift safety and failure that it is necessary for it to commence without delay. The lack of repair and service has potential to impact on the health, safety, utility and comfort of occupiers and visitors to the apartments at the Property, more so, bearing in mind the age of some occupiers.

22. Although formal consultation has not been completed, information has been given to the Respondents and we have not identified a specific prejudice to them in the circumstances. Dispensation from consultation requirements does not imply that the resulting service charge is reasonable.
23. 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).
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 work undertaken or the costs of this application should a reference be received under Section 27A of the Landlord and Tenant Act 1985.

Order

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

L J Bennett
Tribunal Judge
29 October 2019

Leaseholders

Mr P Ahir
Mrs L Tucker
Mr & Mrs R Trayhurn
Mr & Mrs R Greenough
Mr & Mrs Lilley
Moorhouse Petroleum Ltd
Mr A Walker
Mr D Pollard
Mr RA Moss
Mr AC Milnes
Mr & Mrs G Driver
Mr P Boocock
Mr & Mrs G Amos
Mr PN Chandler
Mr RE Lobb
Mr L Benjamin
Messrs Vickers, Chandler & Lilley
Ms J Arnold
Mr A Vickers
Mr VA Brown
Mr & Mrs G Kitson
Mr L Traynor
Mr D Atkinson
Mr T Benson
Ms LN Elliott & Mr AHA Karim
Mr D Vincenzi
Towpath House Keys and Fobs
Mr & Mrs Tushingam
Ms EA Edgar