



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

- Case Reference** : **MAN/00BN/LDC/2019/0045**
- Property** : **Life Buildings, 13 Hulme High Street
Manchester M15 5JR**
- Appellant** : **City South Life Management Ltd
c/o Scanlans Property Management LLP**
- Respondents** : **The leaseholders of the individual properties,
a list being annexed to the application**
- Type of
Application** : **Application under Section 20ZA Landlord
and Tenant Act 1985**
- Tribunal Members** : **Mr J Faulkner
Mr J R Rimmer (Chairman)**
- Date of Decision** : **9th September 2020**

DECISION

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Order : The dispensation sought by the Applicant from compliance with section 20 Landlord and Tenant Act 1985 is granted

Application and background

- 1 This is an application under Section 20ZA Landlord and Tenant Act 1985 (“the Act”) seeking a dispensation from the requirement to fulfil the consultation requirements of Section 20 Landlord and Tenant Act 1985 (further clarified by the Service Charges (Consultation Requirements) (England) Regulations 2003) in relation to what are termed “qualifying works” within that section.
- 2 The works in question are the installation of a fire alarm system required to remedy a serious fire hazard found by Greater Manchester Combined Authority and made the subject of an enforcement notice to ensure compliance with a Fire Safety Order. Such was the concern of the authority that a “waking watch” was required until the hazard was remedied.
- 3 The Applicant has taken the view that seriousness of the situation was such as to require immediate work to be carried out without resort to the consultation process set out by section 20 of the Act. It would appear that no element of such a process was embarked upon, given how the situation was viewed by the Applicant.
- 4 No formal objections to the application have been received from any of the leaseholders to this application and it is not clear from the paperwork provided by the Applicant the extent to which any of the the leaseholders had engaged with any process, or been invited to engage with such a process relating to the works, in the circumstances which had arisen.
- 5 Following receipt of the application by the Tribunal directions for the further conduct of the matter were given by the Regional Judge of the Tribunal on 16th February 2020.
- 6 No further submissions were made to the Tribunal in the course of the Application, other than those contained in the application itself. The Tribunal did receive a very extensive fire risk assessment on behalf of the Applicant, provided by MAF Associates, and the specifications for the proposed alarm system to be provided by Aarhus Fire Protection Ltd. No party has requested a hearing and as no further observation of any nature have been forthcoming from any of the leaseholders. it appears to the Tribunal that no tenant has taken issue with the need for the works and the engagement of the contractor.

- 7 There was nothing in the submissions to the Tribunal that provided any clarification as to how, other than that the issue with the building was the extensive use of wood cladding in its construction, a serious fire risk had been identified.
- 8 In particular, no evidence had been forthcoming as to how the situation had arisen whereby an enforcement notice had been required and what had taken place prior to that point. The Tribunal considered that this information might have been useful as background to the need for such urgent action now to have arisen.

The Law

- 9 Section 18 Landlord and Tenant Act 1985 defines both a “service charge” and also “relevant costs” in relation to such charges whilst Section 19 of the Act limits the amount of those costs that are included in such charges to those which are reasonably incurred in respect of work which is of a reasonable standard.
- 10 Section 20 of the Act then proceeds to limit the amount of such charges that may be recoverable for what are known as “qualifying works” unless a consultation process has been complied with. By Section 20ZA of the Act qualifying works are any works to the building or other premises to which the service charge applies and the relevant costs would require a contribution from each tenant of more than £250.00.
- 11 Section 20ZA(1) particularly provides that:
“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.”
- 12 The consultation process envisages a multi-stage approach by requiring:
 - (1) A notice of intention to carry out qualifying works
 - (2) The right of the leaseholders to nominate a contractor
 - (3) The need for two, or more, estimates
 - (4) The need to give reasons for the eventual choice of contractor.It is in respect only of the last of these that the Applicant seeks its exemption.

Determination

- 13 The Tribunal determined this matter without a hearing on 2nd September 2020. The Tribunal is able under Section 20ZA Landlord and Tenant Act 1985 to determine that on an application to dispense with some or all of the consultation requirements under Section 20 it is satisfied that it is

reasonable to dispense with those requirements. The Tribunal has done so notwithstanding the observations made at paragraph 8 above, in view of the seriousness with which the Combined Authority viewed the situation and the potential consequences of failure to carry out immediate remedial action.

- 14 On the evidence available to it the Tribunal is able to make the following determinations:
 - (1) There is a clear risk to the health and safety of occupants.
 - (2) Work is required to install a suitably robust alarm system.
 - (3) This should be completed as speedily as possible. Fire safety within blocks of flats is a critical issue.
 - (4) There is nothing to suggest any objection from leaseholders.
 - (5) The Applicant may have been able to deal with the matter in a different way earlier but appears now to be doing all that it can to comply with the enforcement notice.
 - (6) The work would have been required in any event.
 - (7) There is nothing apparent from the situation as it is now that would indicate any real prejudice to the leaseholders if the Applicant were able to proceed with the one estimate obtained.

- 15 Even though the Tribunal has determined that it is appropriate to dispense with compliance with the consultation requirements this does not prejudice the future rights of any leaseholder to challenge the reasonableness of any costs incurred in respect of the relevant works under Section 27A Landlord and Tenant Act 1985 relating to the service charges for the year(s) in question.

- 16 In the circumstances the Tribunal is satisfied that it is reasonable to dispense with the requirements to comply with section 20 Landlord and Tenant Act 1985 and the Service Charges (Consultation Requirements)(England) Regulations 2003.

Judge : J R RIMMER
9 September 2020