



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

Case Reference : **MAN/32UD/LDC/2021/0066**

Property : **Sobraon Heights, Cambrai Close, Lincoln LN1
3UL**

Applicant : **Longhurst Group Limited**

Respondents : **Various Residential Leaseholders**

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

Tribunal Member : **Judge L Bennett**

Date of determination : **26 April 2022**

DECISION

Application

1. Longhurst Group 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 relation to urgent roof repairs at Sobraon Heights, Cambrai Close, Lincoln LN1 3UL (the Property).
2. The Respondents are Leaseholders of flats at the Property.

Grounds and Submissions

3. The application was received by the Tribunal on 14 October 2021.
4. The Applicant is the Landlord and a party to all the residential leases of the Property.
5. The Property is a block of 36 flats built in 2005 of traditional construction comprising: 7 general needs rented, 12 shared ownership and 17 leasehold. It has 3 stairwells and there are 4 flats per floor. Each flat has 2 bedrooms.
6. On 11 January 2022 Deputy Regional Judge Bennett made directions requiring the service of a bundle of documents by the Applicant upon each of the Respondents. A copy was also provided to the Tribunal. The directions stated that in the absence of a request for a hearing the application would be determined upon the parties' written submissions.
7. The Applicant provided within the bundle copies of the Tribunal's directions, the Tribunal application form, a statement of case, correspondence sent to the leaseholders, details of the extra costs and additional documents in support of the application, including a contractor report with photographic evidence, service charge annual accounts and lease agreement.
8. The Applicant's statement of case sets out the basis for the application.

Following the erection of scaffolding on one part of the building to assess the condition of the gutters as part of routine repair, it was identified that there were further problems on the building:

Coping Stones – the mortar around the coping stones is degrading. Several of the coping stones were found to be loose on the mortar bed. In addition, the coping stones on the parapet wall were showing signs of movement causing failure of the top mortar beds and perpendicular joints. Immediate work is required to prevent coping stones from falling and potentially causing serious or fatal injury to residents and visitors. The parapet wall is located close to a public right of way.

Ridge Tiles - numerous ridge tiles were found to be loose. Immediate work is required to prevent tiles from falling into the parapet wall, which can lead to further damage to the building as well as potentially causing serious or fatal injury.

Hip Ridges and Mortar Joints – the hip ridges and mortar joints are beginning to fail throughout. Immediate work is required to provide a watertight surface and

ensure the tiles are safely secured to prevent falling masonry from potentially causing serious or fatal injury.

In addition, complaints were received from 3 residents regarding serious leaks and damage to their flats which are situated on the front elevation.

It is more cost effective to carry out the works whilst the scaffolding is erected.

With the worst of the seasonal weather approaching the Applicant considered that it would also be better for the works to take place immediately to prevent further damage to the building and avoid further significant costs.

9. The Tribunal did not receive submissions from a Respondent Leaseholder. Neither the Applicant nor a Respondent requested a hearing.
10. The Tribunal convened without the parties to make its determination on 26 April 2022.

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 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 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 provided by the Applicant.

Our conclusions are:-

17. 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 Respondents' 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 details provided that entry into a contract for the work is urgent. Further, the defects to be remedied have an obvious and significant potential to impact on the health and safety of occupiers and visitors to the flats at the Property.
19. Although formal consultation has not taken place, we note that the Applicant wrote to each leaseholder on 19 October 2021, advising of the required works, the reasons for urgency, estimated costs of the works, which would be met by the sinking fund, but that there could be potential further costs once the full extent of the works was identified, that an application for dispensation from the Section 20 consultation requirements had been made to the Tribunal and that an order for the works had been placed. On 11 November 2021, the Applicant again wrote to each leaseholder advising that the repairs to the roof would soon be commencing and that scaffolding was being erected to the front of the scheme on 22 November 2021. Balancing the need for urgent action against dispensing with statutory requirements devised to protect service charge paying Leaseholders, we conclude the urgency outweighs any identified prejudice. Dispensation from consultation requirements does not imply that the resulting service charge is reasonable.
20. 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).
21. 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 costs 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

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

Laurence J Bennett
Tribunal Judge
26 April 2022