



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

Case Reference : **MAN/OOBP/LDC/2020/0007**

Property : **Victory Apartments, 165 Union Street,
Oldham OL1 1TD**

Applicant : **The Victory RTM Company Limited**
Representative : **Warwick Estates**

Respondents : **Leaseholders of apartments at the Property**

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

Tribunal Members : **Laurence Bennett (Tribunal Judge)**

Date of determination : **8 December 2020**

Date of Decision : **9 December 2020**

DECISION

Application

1. The Victory RTM 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 the installation of a full fire alarm system at the Property.
2. The Respondents are Leaseholders of apartments at the Property.

Grounds and Submissions

3. The application was received by the Tribunal on 3 February 2020.
4. The Applicant is a Right to Manage Company (RTM) having management powers in respect of the Property.
5. On 18 May 2020 Judge Bennett 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 purpose built single block comprising 32 residential apartments and 2 commercial units. The Applicant stated in the application form "Greater Manchester Fire and Rescue issued an Enforcement Notice on the building with a deadline of 20 January 2020. A meeting took place on 22 January 2020 whereby a Prohibition Notice was advised if such work did not proceed immediately. The works are scheduled for 17 February 2020."
7. The Applicant stated in the application form that the work is urgently required as "An emergency interim measure for full alarm system due to fire compartmental issues throughout premises threatening life in event of a fire. These works will enable full evacuation 'get out policy' for occupiers' safety."
8. The Applicant states that all Leaseholders have received information advising of the enforcement notice and work required.
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 8 December 2020.

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 accompanying the application.
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 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.
18. We accept from the details provided that installation work is urgent. The immediate has an obvious 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 accept that Leaseholders are aware of the underlying issue and this application. Balancing the need for urgent renewal 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 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

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

Laurence J Bennett
Tribunal Judge
8 December 2020