

**HM COURTS & TRIBUNALS SERVICE
LEASEHOLD VALUATION TRIBUNAL**

**DECISION OF THE LEASEHOLD VALUATION TRIBUNAL
OF THE NORTHERN RENT ASSESSMENT PANEL**

LANDLORD AND TENANT ACT 1985

Section 20ZA

Property:	Seldon Mews, Seldon Road, Part Poplar Street, York YO26 4TW
Applicant:	Mainstay Residential Limited
Respondents:	Leaseholders at the Property
Tribunal:	L. J. Bennett (Chairman) Jennifer Brown MRTCS
Date of Determination:	12 June 2013

Application

1. The Applicant 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 in the Service Charges (Consultation Requirements)(England) Regulations 2003 (SI 2003/1987) in respect of repairs to the septic tank, pump and pipe work at the Property.
2. The Respondents are individual Leaseholders of Apartments at the Property.

Grounds and Submissions

3. The application was received by the Tribunal on 3 May 2013. The Respondents are listed in an annex to the application.
4. On 9 May 2013 the President of the Tribunal as Procedural Chair, made directions which provided that in the absence of a request by any party for an oral hearing the application would be determined without a hearing. Neither the Applicant nor a Respondent requested a hearing.
5. The Property is described in the application form as a purpose built block of apartments comprising 18 apartments.

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6. The Applicant stated in the application form that: "The qualifying works are repair and renewal works to the septic tank located beneath the car park and that serves to collect and disperse foul waste from the apartment block. The septic tank has begun to fill up quickly and indeed has start to back up into the respective bathroom, sanitary fittings in individual apartments.
7. Further information provided within the application gives details of the work and estimates of cost. It is stated that: "All possible alternative options have been considered but the only way we can prevent the foul waste from backing up into the apartments is to undertake the urgent works"
8. Several Leaseholders have responded; issues raised relate to the longstanding requirement to address the issue and need to ensure the work undertaken is satisfactory. The quality of the original installation is questioned as is the attention of Mainstay's quality of management of the problem. Historic correspondence was enclosed.
9. Neither the Applicant nor a Respondent Leaseholder requested a hearing.
10. The Tribunal convened without the parties to make its determination on 12 June 2013.

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 leasehold valuation 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 leasehold valuation 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 whether an allowable service charge would result from the works within the terms of the Leaseholders' leases. If and when such is demanded and if disputed, it may properly be the subject of a future application to the Tribunal. For this reason it is also not necessary for us to consider whether the estimate for the works represents value or whether action should have been taken earlier.
18. We accept that it is necessary for the septic tank work to take place as early as possible. The problems clearly impact on the health, safety and comfort of occupiers of apartments at the Property
19. 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), in respect of the proposed works.
20. Nothing in this determination or order shall preclude consideration of whether the Applicant may recover by way of service charge from the Respondent Leaseholders 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 Landlord and Tenant Act 1985.

Order

21. The Applicant is dispensed from complying with the consultation requirements with the Respondent Leaseholders in respect of work to the septic tank, pump and pipe work at the Property.

L J Bennett
Chairman
12 June 2013