

12079



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

Case Reference : **MAN/30UQ/LDC/2016/0025**

Property : **Farnholme, 110-312 Moorland Rd, Poulton-Le-Fylde, FY6 7ER**

Applicant : **Farnholme Management Company**

Respondents : **Various (Annex 1)**

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

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

Date of determination : **19 December 2016**

Date of Decision : **19 December 2016**

DECISION

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Application

1. Farnholme 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 reroofing, replacement of works to the roof of a bay window and balcony in respect of water ingress.
2. The Respondents are Leaseholders of flats at the Property.

Grounds and Submissions

3. The application was received by the Tribunal on 12 October 2016.
4. The Applicant is the management company, a party to the leases of the flats.
5. On 18 November 2016 Judge S Duffy 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 residential building on three floors containing 12 flats.
7. The Applicant stated in the application form that the sewer leak has caused damage to the property and work is urgently required to minimise that damage.
8. Further information provided gives details of the problems, the remedies proposed, copies of correspondence with leaseholders, photographs and a quotation.
9. The Applicant states that the Leaseholders have been informed by letter and no objections or queries have been raised.
10. The Applicant states that the work is urgent as temporary repairs would not be practical and delay may lead to further damage.
11. No responses or submissions have been received from or of behalf a Leaseholder.
12. Neither the Applicant nor a Respondent requested a hearing.
13. The Tribunal convened without the parties to determine the application on 19 December 2016.

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 the appropriate 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 the extent of the service charge payable by the Respondents that might result from the works. If disputed when demanded an application may be made to the Tribunal under Section 27 Landlord and Tenant Act 1985.
- 21. We find from the details of the work proposed that it is necessary for work to commence as quickly as possible to prevent further deterioration caused by water ingress. The lack of repair has potential to impact on the health, safety, utility and comfort of occupiers and visitors to the Apartments and common parts at the Property.
- 22. Although formal consultation has not taken place, we have not identified a specific prejudice to Leaseholders 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.

Annex 1

Name	Farnholme No
Mrs Collinson	110
Mr Smedley	112
Mr Goodwin	114
Mr & Mrs Barr	116
Mr Fairbotham	118
Mrs Bebbington	120
The Estate of Mrs William	122
Mr & Mrs Maugham	124
Ms Marsden	126
Ms Welsh & Mr Dust	128
Mr Hunt	130
Mrs Poole	132