



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

Case reference : **MAN/13UB/LDC/2021/0025**

Property : **5, 6, 7, 8, 9, 10, 11, 12, 14, 15, 16, 17, 19
Witney Lane, Hampton Heath, Malpas
Cheshire SY14 8JJ**

Applicant : **Muir Group Housing Association Limited**

Respondents : **Leaseholders of Shared Ownership Houses
the Property (see Annex A)**

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

Tribunal Member : **Deputy Regional Judge L J Bennett**

Date of decision : **19 January 2022**

DECISION

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Preliminary

1. Muir Group Housing Association 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 work to the sewage treatment plant serving apartments at Witney Lane, Hampton Heath, Malpas Cheshire SY14 8JJ (the Property).
2. The Respondents are Leaseholders of Shared Ownership Houses at the Property.

Grounds and Submissions

3. The application is dated 18 May 2021.
4. The Applicant is the Lessor of the Houses at the Property.
5. On 2 December 2021 Judge L Bennett made directions requiring service of the documents by the Applicant on each Respondent. The directions provided that in the absence of a request for a hearing the application would be determined upon the parties' written submissions.
6. The Properties are 13 Shared Ownership Houses on long leases subject to a variable service charge.
7. The Applicant explains that the work to the sewage plant is required as it is in a poor state of repair. The type of plant is out of production. It is in an area susceptible to flooding and when high water occurs, the plant floods throughout.
8. The Applicant states that: "Works were identified to install a final effluent pump and extend the separation battle walls to the underside of their respective covers and to replace the 3 existing pumps on the sewage pump at the development." Further, "Pipework and electric boxes have been tampered with following vandalism of the plant and the plant was not working. The works then became an emergency."
9. The Applicant has provided copies of letters to residential Leaseholders informing them of the urgency, the nature of the works and 2 quotations. Later, the Leaseholders were informed of additional works required. The Applicant did not receive objections and the work has been completed.
10. In response to directions the Applicant has provided copy correspondence, copy quotations, photographs and a sample Shared Ownership Lease.
11. The Tribunal did not receive submissions from a Respondent Leaseholder. Neither the Applicant nor a Respondent requested a hearing.
12. The Tribunal convened without the parties to make its determination on 19 January 2022.

Law

13. Section 18 of the Act defines “service charge” and “relevant costs”.
14. Section 19 of the Act limits the amount payable by the lessees to the extent that the charges are reasonably incurred.
15. 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”.

16. “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.”
17. 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

18. We considered the written evidence within the application.

Our conclusions are:-

19. 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.
20. We accept from the details provided that the work was urgent and has now been completed. A continuing risk had an obvious and significant potential to impact on the health and safety of occupiers and visitors to the Houses at the Property.
21. Although formal consultation was not completed, we accept that Leaseholders are aware of the underlying issue and this application. Balancing the need for urgent action against dispensing with statutory requirements devised to protect

service charge paying Leaseholders, we conclude the urgency outweighed any identified prejudice. Dispensation from consultation requirements does not imply that the resulting service charge is reasonable.

22. 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).
23. 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

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

Laurence J Bennett
Tribunal Judge
19 January 2022

Annex A

Respondent Leaseholders

Mr I Griffiths & Mrs P Griffiths

Mr T Griffiths

Mr G Forster & Mrs N Forster

Miss L Gladwyn

Mr L Jones

Mr J Walker

Mr K Goussaert & Miss S. J Dickinson

Mr M Pollard

Miss L Hough

Miss R McDowell

Mr A Stys

Mr L Kennedy & Miss T Lloyd

Mr J Guest & Mrs H Guest