

11937



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

Case reference : **CAM/00ME/LDC/2016/0008**

Property : **Castleview House, Bridgewater
Terrace, Windsor, Berkshire SL4
1RF**

Applicant : **Castle View RTM Co. Ltd.**

Representative : **Campsie Commercial Limited**

Respondent : **The leaseholders as set out on the
schedule attached to the
Application**

Representative : **Not known**

Type of application : **To dispense with the requirement
to consult lessees (s20ZA Landlord
and Tenant Act 1985)**

Tribunal members : **Tribunal Judge Dutton
Mrs S Redmond BSc Econ MRICS**

Date of decision : **4th April 2016**

DECISION

DECISION

The Tribunal determines that dispensation should be given from all or part of the consultation requirements required under s20 of the Landlord and Tenant Act 1985 (the Act) for the reasons set out below.

Background

1. The applicant seeks dispensation under section 20ZA of the Act from all/some of the consultation requirements imposed on the landlord by section 20 of the 1985 Act¹.
2. The application states that the lift system is currently out of order. The property is a purpose built block of 21 apartments for over 55's located over three floors, the upper floors serviced by a lift. The work required is detailed in the application and supported by two quotes from Able Lifts and Stannah, the costs being £14,453.60 plus VAT and £14,255.49 plus VAT respectively
3. Accompanying the application were copies of responses from residents supporting the need for the works to undertaken speedily. The application indicates that there are funds in reserve to cover the costs
4. On 22nd March 2016 an alternative quote was received from Crown Acre Lifts dated 18th March 2016 suggesting a cost of £12,726 for certain works set out on the quote. This had been obtained, we were told by Mrs Shanley.
5. We requested a copy of the Trust Deed entered into between Jonathan Dean Developments Limited (1) and Holding & Management (Property Administration Limited (2) but the Applicant and its agent could not provide a copy. This needs to be corrected for without the Deed we are not sure on what basis the Applicant manages the property, although there is no dispute raised on this point by any Lessee.
6. The only issue for us to consider is whether or not it is reasonable to dispense with the statutory consultation requirements. This application does not concern the issue of whether any service charge costs are reasonable or payable.

THE LAW (SEE BELOW)

DECISION

7. We have considered the papers lodged by the Applicant. There is no objection raised by the Respondents, either together or singularly to this application, save that Mrs Shanley suggests that the works could be obtained at a lower price. It seems clear from the papers that these works are required urgently. The only matter which is unclear is who will undertake the works. A decision will have to be made. The Applicant will have to determine

¹ See **Service Charges (Consultation Requirements) (England) Regulations 2003 (SI2003/1987) Schedule 4**

whether the three quotes are on a like for like basis and that the suggested contractors are capable of undertaking the works in a short time with suitable guarantees.

8. Notwithstanding the missing Trust Deed we have determined the matter as we are only being asked to dispense with consultation. It will be for the Applicant to show that it is entitled under the terms of the Lease/Deed to undertake and recover the costs of the work, which we suspect will be the case. We are satisfied that it is appropriate to dispense with the consultation requirements. Our decision does not affect the right of the Respondents to challenge the costs or the standard of work should they so wish.

Andrew Dutton

Tribunal Judge

Andrew Dutton

4th April 2016

The relevant law

Section 20 of the Act

- (1) Where this section applies to any qualifying works or qualifying long term agreement, the relevant contributions of tenants are limited in accordance with subsection (6) or (7) (or both) unless the consultation requirements have been either—
 - (a) complied with in relation to the works or agreement, or
 - (b) dispensed with in relation to the works or agreement by (or on appeal from) a leasehold valuation tribunal.
- (2) In this section “relevant contribution”, in relation to a tenant and any works or agreement, is the amount which he may be required under the terms of his lease to contribute (by the payment of service charges) to relevant costs incurred on carrying out the works or under the agreement.
- (3) This section applies to qualifying works if relevant costs incurred on carrying out the works exceed an appropriate amount.
- (4) The Secretary of State may by regulations provide that this section applies to a qualifying long term agreement—
 - (a) if relevant costs incurred under the agreement exceed an appropriate amount, or
 - (b) if relevant costs incurred under the agreement during a period prescribed by the regulations exceed an appropriate amount.

- (5) An appropriate amount is an amount set by regulations made by the Secretary of State; and the regulations may make provision for either or both of the following to be an appropriate amount—
- (a) an amount prescribed by, or determined in accordance with, the regulations, and
 - (b) an amount which results in the relevant contribution of any one or more tenants being an amount prescribed by, or determined in accordance with, the regulations.
- (6) Where an appropriate amount is set by virtue of paragraph (a) of subsection (5), the amount of the relevant costs incurred on carrying out the works or under the agreement which may be taken into account in determining the relevant contributions of tenants is limited to the appropriate amount.
- (7) Where an appropriate amount is set by virtue of paragraph (b) of that subsection, the amount of the relevant contribution of the tenant, or each of the tenants, whose relevant contribution would otherwise exceed the amount prescribed by, or determined in accordance with, the regulations is limited to the amount so prescribed or determined.

ANNEX - RIGHTS OF APPEAL

1. If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber) then a written application for permission must be made to the First-tier Tribunal at the Regional office which has been dealing with the case.
2. The application for permission to appeal must arrive at the Regional office within 28 days after the Tribunal sends written reasons for the decision to the person making the application.
3. If the application is not made within the 28 day time limit, such application must include a request for an extension of time and the reason for not complying with the 28 day time limit; the Tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed despite not being within the time limit.
4. The application for permission to appeal must identify the decision of the Tribunal to which it relates (i.e. give the date, the property and the case number), state the grounds of appeal, and state the result the party making the application is seeking.