



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

Case Reference : **LON/00AL/LDC/2018/0022**

Property : **The River Gardens, Block 1
(Henry Hudson Apartments &
Sir Francis Drake Court), 42
Banning Street, SE10 0FE**

Applicants : **1. Greenwich Wharf Property
Management Company Ltd
2. Greenwich Wharf Limited**

Respondents : **The long leaseholders of The
River Gardens**

**Parties present at
hearing/Representatives** : **Mr J Fieldsend (Counsel for the
Applicants)
Mr B Maltz (Counsel for London
& Quadrant Housing Trust)
Mr S. Stevens (leaseholder and
representative of the Residents
Association)
Mr J Croft (leaseholder)
Mr G Hooker (leaseholder)**

Type of Application : **Dispensation from consultation**

Tribunal Judge : **Mr M Martyński**

Date of Hearing : **14 March 2018**

Date of Decision : **...March 2018**

DECISION

DECISION SUMMARY

1. Dispensation is granted in respect of the consultation requirements regarding the following works:
The replacement of three boilers and associated work
2. The conditions on which dispensation has been granted are as follows:-

BACKGROUND

3. The subject buildings (consisting of 139 flats) were constructed in or about 2010 with residents moving in, in or about 2012.
4. Greenwich Wharf Limited ('GWL') owns the freehold of the buildings. London & Quadrant Housing Trust ('L&Q') has a lease comprising 110 flats from GWL. L&Q sublet those flats with 45 flats let on long leases (on a shared-ownership basis) and 65 flats being let on short-term tenancies. The remaining 29 flats are let on tri-partate leases between GWL, Greenwich Wharf Property Management Company Ltd ('GMC') and the individual leaseholder (on traditional 100% owned long-leases).
5. Of the leaseholders present at the hearing, Messrs. Stevens and Croft have shared ownership sub-leases from L&Q and Mr Hooker has one of the tripartate leases.
6. The buildings are served by three boilers. It is said that these boilers have a prospective life of in the region of 10-12 years.

THE APPLICATION

7. The Applicants' application is dated 11 January 2018. The application sought dispensation from the requirement¹ to consult leaseholders regarding replacement of the boilers.
8. The Application stated that two of the three boilers had failed, leaving the buildings reliant on just one remaining boiler. It was further stated that all three boilers required replacement.

Mark Martyński, Deputy Regional Tribunal Judge
..... March 2018

¹ Part 2, Schedule 4, Service Charges (Consultation etc) (England) Regulations 2003

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.

Appendix

PART 2

CONSULTATION REQUIREMENTS FOR QUALIFYING WORKS FOR WHICH PUBLIC NOTICE IS NOT REQUIRED

Notice of intention

1.—(1) The landlord shall give notice in writing of his intention to carry out qualifying works—

(a) to each tenant; and

(b) where a recognised tenants' association represents some or all of the tenants, to the association.

(2) The notice shall—

(a) describe, in general terms, the works proposed to be carried out or specify the place and hours at which a description of the proposed works may be inspected;

(b) state the landlord's reasons for considering it necessary to carry out the proposed works;

(c) invite the making, in writing, of observations in relation to the proposed works; and

(d) specify—

- (i) the address to which such observations may be sent;
- (ii) that they must be delivered within the relevant period; and
- (iii) the date on which the relevant period ends.

(3) The notice shall also invite each tenant and the association (if any) to propose, within the relevant period, the name of a person from whom the landlord should try to obtain an estimate for the carrying out of the proposed works.
Inspection of description of proposed works

2.—(1) Where a notice under paragraph 1 specifies a place and hours for inspection—

- (a) the place and hours so specified must be reasonable; and
- (b) a description of the proposed works must be available for inspection, free of charge, at that place and during those hours.

(2) If facilities to enable copies to be taken are not made available at the times at which the description may be inspected, the landlord shall provide to any tenant, on request and free of charge, a copy of the description.

Duty to have regard to observations in relation to proposed works

3. Where, within the relevant period, observations are made, in relation to the proposed works by any tenant or recognised tenants' association, the landlord shall have regard to those observations.

Estimates and response to observations

4.—(1) Where, within the relevant period, a nomination is made by a recognised tenants' association (whether or not a nomination is made by any tenant), the landlord shall try to obtain an estimate from the nominated person.

(2) Where, within the relevant period, a nomination is made by only one of the tenants (whether or not a nomination is made by a recognised tenants' association), the landlord shall try to obtain an estimate from the nominated person.

(3) Where, within the relevant period, a single nomination is made by more than one tenant (whether or not a nomination is made by a recognised tenants' association), the landlord shall try to obtain an estimate—

(a) from the person who received the most nominations; or

(b) if there is no such person, but two (or more) persons received the same number of nominations, being a number in excess of the nominations received by any other person, from one of those two (or more) persons; or

(c) in any other case, from any nominated person.

(4) Where, within the relevant period, more than one nomination is made by any tenant and more than one nomination is made by a recognised tenants' association, the landlord shall try to obtain an estimate—

(a) from at least one person nominated by a tenant; and

(b) from at least one person nominated by the association, other than a person from whom an estimate is sought as mentioned in paragraph (a).

(5) The landlord shall, in accordance with this sub-paragraph and sub-paragraphs (6) to (9)—

- (a) obtain estimates for the carrying out of the proposed works;
 - (b) supply, free of charge, a statement (“the paragraph (b) statement”) setting out—
 - (i) as regards at least two of the estimates, the amount specified in the estimate as the estimated cost of the proposed works; and
 - (ii) where the landlord has received observations to which (in accordance with paragraph 3) he is required to have regard, a summary of the observations and his response to them; and
 - (c) make all of the estimates available for inspection.
- (6) At least one of the estimates must be that of a person wholly unconnected with the landlord.
- (7) For the purpose of paragraph (6), it shall be assumed that there is a connection between a person and the landlord—
- (a) where the landlord is a company, if the person is, or is to be, a director or manager of the company or is a close relative of any such director or manager;
 - (b) where the landlord is a company, and the person is a partner in a partnership, if any partner in that partnership is, or is to be, a director or manager of the company or is a close relative of any such director or manager;
 - (c) where both the landlord and the person are companies, if any director or manager of one company is, or is to be, a director or manager of the other company;
 - (d) where the person is a company, if the landlord is a director or manager of the company or is a close relative of any such director or manager; or
 - (e) where the person is a company and the landlord is a partner in a partnership, if any partner in that partnership is a director or manager of the company or is a close relative of any such director or manager.
- (8) Where the landlord has obtained an estimate from a nominated person, that estimate must be one of those to which the paragraph (b) statement relates.
- (9) The paragraph (b) statement shall be supplied to, and the estimates made available for inspection by—
- (a) each tenant; and
 - (b) the secretary of the recognised tenants' association (if any).
- (10) The landlord shall, by notice in writing to each tenant and the association (if any)—
- (a) specify the place and hours at which the estimates may be inspected;
 - (b) invite the making, in writing, of observations in relation to those estimates;
 - (c) specify—
 - (i) the address to which such observations may be sent;
 - (ii) that they must be delivered within the relevant period; and
 - (iii) the date on which the relevant period ends.