CHI/21UD/LDC/2009/0043

THE RESIDENTIAL PROPERTY TRIBUNAL SERVICE

DECISION OF THE SOUTHERN LEASEHOLD VALUATION TRIBUNAL

LANDLORD AND TENANT ACT 1985 S.20ZA

8/9 TERRACE ROAD, ST LEONARDS ON SEA, EAST SUSSEX TN37 6BN

Applicant: Oakdene Estate Management Ltd (in administration)
Represented by: Mr Andrew Harding of QUBE Leasehold Property Management Ltd

Respondents:
1. Mr Curtis (Flat 1)
2. Ms Harper (Flat 2)
3. Mr Antilli (Flat 3)
4. Ms Gordon (Flat 4)
5. Scarlet Estates Ltd (Flat 5)
6. Mr and Mrs Weavers (Flat 6)
7. Mr Bailey (Flat 7)
8. Mr B Newman (Flat 8)
9. Ms Hamilton (Flat 9)
10. Mr Newman (Flat 10)
11. Ms Arnold (Flat 11)
12. Mrs Antilli (Flat 12)
13. Mr Briley (Flat 13)
14. Mr Briley (Flat 14)
15. Mr Ahmed and Mrs Robinson (Flat 15)
16. Mr P Courtney (Flat 16)
17. Mr S Ashdown and Mrs CAR Robinson (Flat 17)

Represented by: Mr Newman and Ms Arnold

Date of Application: 8 December 2009

Date of hearing: 19 January 2010

Members of the Leasehold Valuation Tribunal:

MA Loveday BA Hons MCI Arb
Mr N Robinson FRICS

INTRODUCTION

1. This is an application arising from major works to a property overlooking Warrior Square in St Leonards on Sea. The application dated 8 December 2009 is made by the administrators to the landlord and seeks an order under s.20ZA of the Landlord and Tenant Act 1985 to waive consultation requirements in respect of qualifying works. The application names each of the lessees of the 17 flats within the block as lessees.

2. Directions were given on 24 December 2009, and in view of the urgency of the matter, a hearing was listed for 8 January 2010. However, due to the poor weather on that date, the hearing was adjourned to 19 January 2010. At the hearing, the applicant was represented by Mr Andrew Harding of QUBE Leasehold Property Management Ltd who relied on evidence of Mr John Burns of EBW Consultancy Ltd. A number of lessees attended, and the Tribunal considered written representations from several lessees and oral submissions from Mr Newman (Flat 10) and Ms Arnold (Flat 11). The lessees relied on oral evidence from Mr George Okines of ARCO Property Management Ltd.

3. At the conclusion of which the Tribunal gave an oral decision in accordance with regulation 18(2) of the Leasehold Valuation Tribunal (Procedure)(England) Regulations 2003. The Tribunal refused the application for the reasons given below.

INSPECTION

4. The Tribunal inspected the property before the hearing. The building is located on the northern side of Warrior Square, a large period square on the seafront in St Leonards. The front elevation faces north and the rear elevation faces south across Warrior Square Gardens toward the sea. It comprises two mid terrace Victorian houses on six storeys (including basement and dormers) with rendered and painted elevations under a tiled roof. The two houses have been converted at some stage into 17 flats, although it appears that the combined building was formerly a hotel. The decorations generally are looking rather worn and would benefit from renewal with some repairs to render etc undoubtedly being found necessary at the same time.

5. The north (front) side of the roof was not accessed and was hidden by the parapet when inspecting from pavement level. The south side facing Warrior Square Gardens was accessed by scaffolding provided to the south elevation. From the scaffold, one could see the parapet wall close up, the parapet gutter behind, the south roof slope and the dormer type windows. The flat roof over the centre part of the house could not be seen. The roof is effectively in two parts, that serving No 8 and that serving No 9, with a firewall between the two properties as well as at either end. The firewalls and chimneys were rendered with lead flashings at the abutments with the tiles. The dormer windows had tiled roofs with tile hung cheeks and PVCu shiplap cladding above the windows. The parapet gutter detail was presumed to have been lead with an over-coating of a bitumen type material. Attention was drawn to the outlets that feed out through the main rear wall into hoppers and downpipes. The parapet wall was rendered with a render capping. There were areas of defective render to parapet walls with exposed brick substrate visible by flashings. Attention was drawn to the eastern parapet gutter outlet which had blocked previously and had caused the water penetration to the flats immediately below. The parapet wall and capping was generally in fair condition although some areas were quite badly worn and weathered.

6. It was noted that the roof slopes to both houses were covered with concrete interlocking tiles. Originally, the slopes would have been covered with a natural slate which would have been lighter. Nevertheless, the tiles themselves were still felt to be probably over 30 years old. The tiles generally appeared in good condition although showing signs of their age, with a number being covered in moss, including in the valley gutters between the main roof slopes and the dormer roofs. Some tiles were missing and roofing underfelt in apparently good condition was visible below. This section of felt looked more modern than the tiles as if at least partial repair/replacement of the felt had been undertaken since the original re-roofing.

7. The Tribunal inspected flats on the top floor of the building and some flats below. There were signs of serious water ingress to the south east corners of rooms on the rear (south) elevation which had penetrated through at least three floors. The Tribunal inspected the staining to the walls in flats 14 and 12, but not the one below. This was

consistent with flooding having originated from a blockage to the outlet to the parapet gutter on the top floor outside Flat 16. The staining was dry to the touch. In Flat 16 on the top floor there was damp staining and a crack to the ceiling of a room on the north elevation. Flat 14, which was immediately below Flat 16, had other areas of damp staining to the ceiling and wall.

THE CASE FOR THE APPLICANTS

8. Mr Harding explained that his firm had been appointed in June 2009 by PriceWaterhouseCoopers (the administrators to the landlord) to manage a portfolio of properties owned by the landlord. On the first inspection, it had become very clear that the building had suffered years of neglect. Mr Harding decided that the first priority was to tackle the external works. Service charge demands were sent out in September 2009, and it was some time before the agents were in funds to start any kind of works. On 13 November 2009, he had been in a position to write to leaseholders to explain that contractors KB Building Contractors had been instructed to erect two scaffold towers to the park elevation (i.e. the side of the building facing Warrior Square). This would enable an assessment of the roof to be made. He asked for the co-operation of lessees and explained that further funds might well be needed for works, depending on what the contractors found.

9. Mr Harding was aware of complaints that the roof was leaking at that stage into the flats below. Mr John Burns inspected the roof and produced a report dated 14 December 2009. He found that the main roof "*is clearly in need of urgent attention to minimise the damage to the roof structure itself and the accommodation below*". He recommended that immediate measures should be taken which should include

> "*...as a bare minimum, broken, slipped and missing tiles should be replaced and moss and vegetation should be removed. Where flashings have become dislodged, they should be re-wedged and re-pointed, repairs should be undertaken to cracks and blown areas of render to the parapet walls and generally clear debris from the gutters.*"

However, Mr Burns considered that in his view the more serious problems could only be dealt with:

"...by carrying out a general overhaul of the main roof including stripping the roof slopes and felting, battening and re-tiling, new lead and repairs to render. We would also recommend the re-introduction of slate as this is lighter. The existing concrete tiles are much heavier and possibly inappropriate for this design of roof."

10. This report was the driving force behind the need to replace the roof. As a result, Mr Harding arranged for a Notice of Intention to Carry Out Works under the Service Charges (Consultation Requirements) (England) Regulations 2003 to be served on the lessees. This stated that Oakdene intended to enter into a contract to carry out works which included:

> *"Erection of 2x scaffold towers to the park elevation to 8/9 Terrace Road, St. Leonards on Sea, TN37 6BN. Assess scope of work and re-tile mansard roof where tiles dislodged. Check gulley to roof and re-dress lead as necessary. Remove debris within gutter systems inaccessible by traditional means.*
>
> *Assess the condition of the overall roof system and upper building fabric and undertake re-roofing and repairs as necessary assess the flat roof areas and re-deck and asphalt as necessary. Undertake repairs and external decoration to all facades/elevations."*

Observations were required by 18 December 2009. The next stage of the consultation was that the applicants sought estimates from builders. KB Building Contractors Ltd submitted an estimate on 27 November 2009 on their company letterhead, which estimated costs at £59,203. These costs included re-roofing the main roof with slates, replacing flat roofs and decorations and scaffolding. There was another estimate from Stretco Roofing which was for £70,309 plus VAT. Mr B Symes estimated £60,000 plus VAT.

11. At that stage, it was believed that most of the leaks were coming from the box gutter. The agents proceeded with scaffolding to the north (street) elevation as a result of an insurance claim. The scaffold was completed but due to inclement weather the works were delayed. There was urgency in the works in part because the local authority had offered grant aid which would not be available if the works started after 31 December 2009. It was unclear whether that grant aid would be available if the works stopped now. There was no desire to steamroller any lessee, the funding from the Council was important to the agent, but benefitted the tenants.

12. Mr Burns worked for EBW, a firm of chartered surveyors. He relied on the report of 14 December 2009 set out above. In addition to the main roof, the building was generally in a dilapidated state, with major decorations due to the exterior overdue. Mr Burns inspected all the external elevations. The applicant then erected an access scaffold to the front (northern) elevation which regrettably gave limited access to the rear (southern) elevation. He had no access to the interiors of the top floor flats. It was hard to pinpoint the precise cause of the water ingress. Possible causes, however, appeared to be missing and broken tiles, possibly defective soakers, parapet gutters and valley gutters. There were numerous areas of blown plaster and defects to the flaunchings. Some roofers attended the inspection and lifted a number of the tiles which were wet underneath. There were also a number of missing and possibly cracked tiles. The weathering details were suspect and there was a lot of moss (moss retains water). Mr Burns concluded that the nature of the tiles (which retained water and made them heavier) was not appropriate and he considered that the roof should be replaced with tiles. He accepted that there was also a lot of debris in the gutters and blockages. When asked about the urgency of the works, Mr Burns said that "I wouldn't say that the work was urgent. It is eminently sensible to do the work at roof level and to carry out a complete overhaul. It is more practical and economical in the medium and longer term." He accepted that temporary works may well have stopped water ingress into the upper flats for now, but those leaks may recur. Isolated 'patch' repairs to the roof were no guarantee that 100% repairs were not needed. Mr Burns stated that the cost of scaffolding was a major consideration and it was not sensible to duplicate costs. When questioned by the respondents, Mr Burns said that there were some urgent repairs still needed, and he referred to the list of immediate measures in his letter of 14 December 2009 (see above). Some of those works were so urgent that one could not wait for 30 days and there was a very strong likelihood of further leaks occurring during the next 30 days. Mr Burns considered that urgent works were still required. On inspection of the top floor flats on the morning of the hearing, there were other areas of damp staining, and only one of these related to the parapet gutter. Moreover, he considered there might be rot as a result of the damp.

13. Mr Harding concluded by stating that the list of works had been discussed with the local conservation officer who had confirmed the works were within the local authority grant scheme. He wanted to dispense with the consultation requirements from the point after the initial notice of intention to carry out works. If the requirements were dispensed with, it was the landlord's intention to draw up a formal specification of works, (including the roof works and the external decorations) within 3 weeks, to then proceed to tenders within a further 2 weeks, then to seek funds from the lessees for the works and after this, to proceed to place the contract. Works could commence in 8 weeks time. If dispensation as not obtained, then the works would be delayed until May. He accepted that the original leaks may now have been stopped, but the landlord had proceeded on the basis of the information available at the time.

THE CASE FOR THE RESPONDENTS

14. The respondents stated that next to no management functions had been carried out for some years and that it was evident that a lot of work was needed. These included urgent repairs. Qube had been told about these in September 2009. After the scaffolding was erected, the lessees asked a builder to go up to have a look. He immediately saw what the cause of the water ingress was, namely a blocked parapet gutter. The builder cleared the gutter with his hand and the leak stopped. The agents had therefore shown an inability to deal with the issue which had rendered Flat 14 almost uninhabitable.

15. As far as the main works were concerned, the lessees did not disagree that work needs to be done. However, they referred to an email from Mr Harding dated 3 December 2009, which suggested that £80,000-£95,000 worth of work needed to be done. These were in addition to the immediate works referred to by Mr Burns, which were costed at about £12,670. These were large sums to be incurred without any proper consultation. The works were not so urgent that they needed to be done now; the works were not "critical". After the scaffolding went up, the respondents asked a Trustmark accredited builder, Paulcroft Ltd, to inspect the roof.

16. The respondents called Mr Simon Davies of Paulcroft to give evidence. The firm's findings were set out in estimates from Mr Simon Davies dated 12 January and 14 January 2010. He estimated the cost of clearing debris, nests and moss from the roofs and gutters and to carry out temporary repairs to splits in the lead and missing tiles at £440 plus VAT. He also estimated the cost of patch repairs to broken and missing tiles, defective render and waterproofing at between £8,189 and £10,452 plus VAT. When cross examined by Mr Harding, Mr Davies stated that on inspection he had seen no signs of sagging in the roof, but that he was not a surveyor. He accepted that saturated tiles could put more weight on the purlins in the roof structure than they were designed for. However, it was a matter of opinion as to whether it was prudent to lighten the load. The property had not been redecorated for at least 10 years.

17. The respondents also called Mr George Okines of ARCO Property management Ltd. His firm was a local managing agent and he gave evidence about the consultation process. He considered that the urgent matter was the water ingress. Had he been involved, he would have put up a tower scaffold (£300-£400) and carried out urgent works which did not require any dispensation. He would have erected a full scaffold for estimating the more extensive works and the cost would have been included in the consultation. He agreed with the defects as set out in Mr Burn's report, but these could easily be dealt with in the full consultation. There was no evidence of recent water ingress. It was desirable, although not essential, to relieve pressure on the roof purlins. Mr Okines also criticised the s.20 Notice of Intention to carry out Works, which he said was vague. When cross –examined, Mr Okines agreed he would not have carried out works with no funds.

18. The respondents criticised the use of KB Builders. A similar firm had apparently had been dissolved in the summer of 2009 and the new company formed in its place using the same name.

19. When asked by the Tribunal, the respondents stated that they wanted the entire consultation process to start again with a fresh notice of intention to carry out works. In any event, the respondents were intending to exercise the Right to Manage or

acquire the freehold under the Leasehold Reform Housing and Urban Development Act 1995.

THE LAW

20. The relevant provisions of the 1985 Act are as follows:

> ***Limitation of service charges: consultation requirements***
>
> ***20*** *(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.*
> ...
> *(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.*
> ...
> *(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.*

The "*appropriate amount*" under s.20(5)(b) has been set at £250.

21. Dispensation is dealt with in s.20ZA:

> ***Consultation requirements: supplementary***
> ***s.20ZA*** *(1) Where an application is made to a leasehold valuation tribunal for a determination to dispense with all or any of the consultation requirements in relotion to any qualifying works or qualifying long term agreement, the tribunal may make the determination if sotisfied that it is reasonable to dispense with the requirements.*

(2) In section 20 and this section—
"qualifying works" means works on a building or any other premises, and

...

(4) In section 20 and this section "the consultation requirements" means requirements prescribed by regulations made by the Secretary of State.

22. The consultation requirements appear in Part 2 of Schedule 4 to the Service Charges (Consultation Requirements)(England) Regulations 2003. These are annexed to this determination.

DETERMINATION

23. In this instance, the landlord has operated the first stage of the statutory consultation procedure, namely the notice of intention to carry out works under paragraph 1 of Part 2 of Schedule 4 to the 2003 Regulations. The validity of this notice has not been challenged by the respondents and insofar as we are asked to determine its validity, we do so. The lessees expressed the desire to start again with a fresh notice. However, the Tribunal has no power to set aside a Notice of Intention and there is no reason why the Tribunal should do so. The landlord has set out its proposed works in a notice, and it has acted quite properly in doing so.

24. As far as dispensation with the remaining requirements of the regulations is concerned, the first consideration is the extent of the dispensation sought by the landlord. Here, the notice of intention to carry out works refers not to the main works to the pitched roofs at fourth floor level, but it also refers to preliminary scaffolding works, re-covering of flat roofs lower down the building and "*repairs and external decorations to all facades/elevations*." These are very extensive proposals, which are not closely defined by reference to, for example, a schedule of works or a particular detailed estimate from one firm of contractors. Indeed, none of the contractors estimates shown to the Tribunal appears to extend to the whole of the proposed works. Furthermore, the landlord's proposal is to dispense with all the further protection for lessees set out in paragraphs 2 to 6 of Part 2 to Schedule 4 to the Act.

Such a vague and open ended dispensation will not usually be granted under s.20ZA without the clearest of reasons for doing so.

25. The second consideration is whether there is a sustainable reason for dispensing with the consultation requirements, the factor which was at the heart of the submissions advanced by both parties. The discussion here often centred on whether the works were "urgent" or not. For example, Mr Harding admitted that, with hindsight, the works were not "urgent", but he still maintained that there were good reasons for dispensing with the consultation procedures. However, the Tribunal considers that the issue is more complex. We find that it is not immediately necessary to replace or re-cover the whole of the roof. There is no evident threat to the structure. The Tribunal observed that the roof tiles generally appeared level with little obvious sign of deflection in the roof structure. Furthermore, there is no immediate threat of extensive water ingress. On inspection, the damp damage was extensive but historic and the main damage was consistent with the blockage to the parapet gutter alleged by the respondents and confirmed by their witness. There was no evidence of recent water ingress, despite the fact that the inspection took place shortly after weather conditions which were so poor that the initial hearing had to be postponed. The Tribunal finds as a fact that the main water ingress in Flat 14, 12 and the flat below was caused by a blocked parapet gulley and that that blockage has now been cleared. Finally, the underfelt appears sufficient to contain the immediate threat of water ingress through the pitched roof coverings. In the medium term, extensive works will plainly be needed. The present porous roof tiles are heavier than the originals and they will become even heavier when wet. The landlord may properly conclude that a total replacement or re-covering of the roof would be the appropriate and reasonable course of action during the course of any statutory consultation. As to the other works proposed by the landlord in the Notice of Intention, it is not suggested that they need to be dealt with immediately. The flat roofs and exterior decorations do need work in the medium term, but not before the statutory consultation period expires. It is true that some savings in costs may well accrue through carrying out these works at the same time as any roof works, but this saving was never really developed in argument or (more importantly) in evidence. Similarly, the suggestion that the works had to

commence to attract grant aid was not supported by evidence of the terms of the grant application. In short, the Tribunal does not find any good reason for dispensing with the consultation requirements.

26. Thirdly, the Tribunal considers the prejudice to the lessees. By dispensing with the consultation requirements the lessees would lose the following rights:

(a) to have their representations on the scope of works taken into account (para 3 of Part 2 to Schedule 4 to the 2003 regulations)

(b) the right to nominate a contractor and require the landlord to seek an estimate from that contractor (para 4(1) of Part 2)

(c) the right to a statement of estimates and paragraph (b) statement (para 4(5) of Part 2)

(d) the right to have their representations on the scope of works taken into account (para 5 of Part 2)

(e) the right to a contract statement, where appropriate (para 6 of part 2)

These are important protections afforded to tenants against being asked to pay excessive service charges in respect of the cost of any works. Indeed, the importance of the provisions is highlighted in this case, where the lessees seek to question the scope of the works, the identity of the contractors and the cost of the works. Whether or not these questions are justified (and it may well be that some of the objections are not sustainable), they are precisely the kind of issues to be raised during the consultation procedures laid down by parliament. It is, of course, true that prejudice could also be caused to the lessees (and the landlord) by not granting dispensation. Leaks could recur and costs could rise if the works are not completed soon. However, the Tribunal considers that these possibilities do not outweigh the very real prejudice caused by losing the rights under the regulations.

27. Finally, the Tribunal considers whether it is (or has been) possible or reasonably practicable for the landlord to serve the relevant notices and provide the relevant information in the regulations. The landlord has in this instance served a Notice of Intention and it has sought estimates. It has not apparently circulated any other detailed information about the proposals to the lessees, even in a form which does

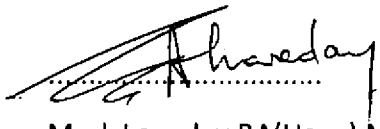
not follow the regulations - although we are conscious of the short time periods involved. The evidence of Mr Harding about the timing of the proposed work was of considerable assistance, in that the total delay involved in consulting will be only a matter of weeks. The Tribunal concludes that there is no reason why the time limits for consultation cannot therefore be adhered to in respect of the works.

CONCLUSIONS

28. The Tribunal determines that:

(a) The notice of intention to carry out works dated 13 November 2009 properly served.

(b) The Tribunal declines to dispense with consultation requirements in relation to the proposed works under s.20ZA of the Landlord and Tenant Act 1985. It follows that in relation to those works, the applicant is required to comply with paragraphs 2-6 of Part 2 of Schedule 4 to the Service Charges (Consultation Requirements)(England)(Regulations 2003.



Mark Loveday BA(Hons) MCIArb
Chairman
28 February 2010

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.

(11) Paragraph 2 shall apply to estimates made available for inspection under this paragraph as it applies to a description of proposed works made available for inspection under that paragraph.

Duty to have regard to observations in relation to estimates

5. Where, within the relevant period, observations are made in relation to the estimates by a recognised tenants' association or, as the case may be, any tenant, the landlord shall have regard to those observations.

Duty on entering into contract

6. - (1) Subject to sub-paragraph (2), where the landlord enters into a contract for the carrying out of qualifying works, he shall, within 21 days of entering into the contract, by notice in writing to each tenant and the recognised tenants' association (if any) -

(a) state his reasons for awarding the contract or specify the place and hours at which a statement of those reasons may be inspected; and

(b) there he received observations to which (in accordance with paragraph 5) he was required to have regard, summarise the observations and set out his response to them.

(2) The requirements of sub-paragraph (1) do not apply where the person with whom the contract is made is a nominated person or submitted the lowest estimate.

(3) Paragraph 2 shall apply to a statement made available for inspection under this paragraph as it applies to a description of proposed works made available for inspection under that paragraph.