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**LEASEHOLD VALUATION TRIBUNAL  
OF THE MIDLAND RENT ASSESSMENT PANEL**

**Case Number:** BIR/00CN/LDC/2012/0007

**Property:** Castle Court, Hurst Lane, Castle Bromwich, B34 7HS

**Applicant:** Bacham Ltd

**Applicant's Agent:** Pennycuik Collins, 9 The Square, 111 Broad Street, Birmingham, B15 1AS

**Respondents:**

Miss A Belcher	1 Castle Court
Miss P H E Satchwell	2 Castle Court
Miss S J Smith	3 Castle Court
Miss J Kaur	4 Castle Court
Miss V Ruddy	5 Castle Court
Miss J Morton	6 Castle Court
Miss R Grover	7 Castle Court
Mr J A Owen	8 Castle Court

Hurst Lane, Castle Bromwich, B34 7HS

**Date of Application:** 5<sup>th</sup> July 2012

**Type of Application:** Application under Section 20ZA of the Landlord & Tenant Act 1985 for the dispensation of all or any of the Consultation Requirements provided for by Section 20 of the Landlord & Tenant Act 1985.

**The Tribunal:** Mr G S Freckelton FRICS (Chairman)  
Mr D R Salter LLB

**Date of Decision:** 6 August 2012

## INTRODUCTION AND THE DISPUTE

1. By application dated 5<sup>th</sup> July 2012, the Applicant through its managing agents, Pennycuick Collins, applied to the Tribunal for dispensation from the consultation requirements imposed by Section 20 and the Service Charges (Consultation Requirements)(England) Regulations 2003 in respect of the block of flats known as Castle Court, Hurst Lane, Castle Bromwich, B34 7HS.

## THE FACTS

2. Owing to storm damage in 2012, the landlords' agents reported that the garage roof covering had become detached from the garage block. Originally work was due to be carried out to the roof in 2013. However owing to the severity of the damage, the landlords' agents submitted that the work could no longer wait.
3. The landlords' agents confirmed that they had made an insurance claim but were advised that the cost of the work was not covered owing to wear and tear. They had been advised that the work was to be carried out as soon as possible and the Residents Association had met on 14<sup>th</sup> June 2012 and voted to support the application to the Leasehold Valuation Tribunal at the earliest possible date.
4. Pennycuick Collins had obtained quotations, which they had initially submitted to the building insurers, and these were sent to the Tribunal.
5. The quotations obtained were: -

Hickenbuild	£4,904.40 including VAT
Lyntec	£4,236.00 including VAT
Parks & Son Builders Ltd	£3,720.00 including VAT

All the above quotations included a contingency sum of £500 and a contract administration fee inclusive of VAT.
6. Pennycuick Collins have confirmed that they intend to instruct Parks & Son Builders Ltd as their tender was the lowest and they had also recovered four garage roofs at the development in 2009. There had been no concerns with regard to previous work for which they have obtained a ten-year guarantee.
7. Upon receipt of the application, the Tribunal wrote to all the parties sending them a copy of the application together with copies of the quotations. No response had been received from any of the Respondents.

## THE LAW

8. Where a landlord proposes to carry out qualifying works, which will result in a charge being levied upon a leaseholder of more than £250, the landlord is required to comply with the provisions of Section 20 of the Landlord & Tenant Act 1985 and the Service Charges (Consultation Requirements) (England) Regulations 2003.
9. Failure to comply with the Regulations will result in the landlord being restricted to recovery of £250 from each of the leaseholders unless he obtains a dispensation from a Leasehold Valuation Tribunal under Section 20ZA of the Act.
10. In deciding whether or not to grant dispensation, the Tribunal is entitled to take into account all the circumstances in deciding whether or not it would be reasonable to grant dispensation. An application for dispensation may be made before or after the commencement of the works.

THE INSPECTION AND HEARING

- 11. The Tribunal inspected the property on Monday 30<sup>th</sup> July 2012 in the presence of Mrs N Steadman from Pennycuick Collins, agents on behalf of the Applicant. Castle Court was noted to be a single 4 storey block containing 8 flats. To the rear was a single garage, a block of 3 garages and a block of 4 garages, the latter of which was the subject of this application.
- 12. The Tribunal noted that the roof area over 2 of the 4 garages was covered in tarpaulin and the general condition of those areas the Tribunal was able to inspect was poor.
- 13. A Hearing was held at the Tribunal office in Birmingham on Monday 30<sup>th</sup> July 2012. The Applicants were represented by Mrs N Steadman and Mrs B Griffiths-Tame of Pennycuick Collins. The Respondents were not represented.
- 14. Mrs Griffiths-Tame confirmed this application was to allow the landlords to replace the roof over the single block of 4 garages. It was originally planned that this work would be undertaken in 2008/2009 but the Residents Association had asked for other works to be done instead and for the garage roofs to be dealt with at a later date.
- 15. The other projects had subsequently been completed and the work to this garage block was then programmed to be carried out in 2012/2013 but unfortunately adverse weather conditions had resulted in part of the garage roof blowing off.
- 16. Mrs Griffiths-Tame confirmed that the Residents Association had met and that the 6 residents who were members of the Association had all voted in favour of applying to the Tribunal for dispensation to allow the works to be carried out at an early date. It was confirmed that the Chairman of the Residents Association had also informed the 2 residents who were not members of the Association and they were in agreement with the application to the Tribunal.
- 17. The Tribunal asked if there were any formal minutes but it was explained that meetings of the Residents Association were informal and there were therefore no formal minutes. The Tribunal was provided with a copy of an email from the Vice Chairman of the Residents Association confirming that at the meeting on 14<sup>th</sup> June 2012 the members of the Residents Association had voted to support the application to the Leasehold Valuation Tribunal for dispensation to carry out the necessary garage roof repairs at the earliest possible date, foregoing the formal consultation period.

THE TRIBUNAL'S DECISION

- 18. The Tribunal is satisfied on the information provided that it is reasonable to dispense with the consultation requirements in this case.
- 19. The Tribunal is also influenced by the fact that the Residents Association at their meeting on 14<sup>th</sup> June 2012 voted to support the application, which suggests that they too consider that the landlords' agents have acted reasonably.
- 20. Accordingly, as verbally confirmed at the Hearing, the Tribunal will grant the dispensation requested under Section 20ZA and determines accordingly.
- 21. This determination does not give or imply any judgement about the reasonableness of the works to be undertaken or the cost of such works.

Signed .....  
Graham Freckelton FRICS (Chairman)

Dated 6 August 2012