



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

Case Reference : **CAM/OOMD/LSC/2014/0029**

Property : **Wexham Lodge, Wexham Road,
Wexham, SL2 4HF**

Applicant : **Wexham Lodge Management Co.
Ltd**

Representative : **Mr B Kennedy and Mr J Vallance**

Respondent : **The eight leaseholders as appear on
the application**

Representative : **None**

Type of Application : **Permission for dispensation from
the consultation requirements
under s20 of the Landlord and
Tenant Act 1985 (the Act) (S20ZA of
the Act)**

Tribunal Members : **Tribunal Judge Dutton
Mrs S F Redmond BSc Econ MRICS
Mrs N Bhatti**

Date of Determination : **25th July 2014**

Date of Decision : **5th August 2014**

DECISION

The tribunal grants the Applicant's request for dispensation from the consultation requirements under s20 of the Landlord and Tenant Act 1985 (the Act) for the reasons set out below. Such dispensation relates to the quotation submitted by P N S Lakelands.

Background.

1. This decision should be read in conjunction with a decision made by us on 14th April 2014 which set out the circumstances of the application.
2. Following the adjournment and the conclusion of further investigations by the Applicants we were presented with a bundle of papers, which contained amongst other documents quotes from Allen Roofing Contractors (High Wycombe)Limited (Allen) dated 19th June 2014 and PNS Lakelands (Mr Paul Smith) (PNSL) which is undated. In addition we were presented with a report from Kempton Carr Croft, chartered surveyors dated 24th April 2014 which set out advice with regards to works required to the property, which had formed the basis upon which the two contractors, Allen and PNSL had quoted.
3. In an email to the Tribunal dated 25th July 2014 Mr Kennedy, for the Applicant said as follows:
"I appreciate that it is very difficult to compare the quotes. This is despite extra requests from myself to both contractors for a better presentation of the quotes. As Kempton Carr Croft recommended both contractors and each was quoting against the required works in the report, my assumption is that KCC would allow us to make the final choice.

The position now is that a Leaseholders meeting was held on Monday July 7th, and those present (4 out of 8 Leaseholder) opted to accept the quote of PNS Lakeland, which is the lower of the two.

A copy of my spreadsheet is attached whereby I tried to make a like for like comparison of the two quotes.

Therefore, I request a decision from the Tribunal to waive section 20 requirements in respect of an amount of £28,000.

This is an amount agreed after discussion at the meeting on July 7th, and is based on the the final PNS quote which came to £21,374, inclusive of Vat. The higher amount being sought is because

(1) An item of required repairs was omitted by both parties in their quotes (relating to cracks around the last upper window on the left side of the South Elevation, provisionally estimated to cost less than £1,000).

Therefore this extra amount must be covered, and

(2) All present recognised that it is most probable further remedial works will be identified when the specified items are examined in closer detail, and it would be prudent to allow for some extra contingency so that the completion of the works could proceed.

To repeat, the decision sought from the Tribunal to waive section 20 requirements in respect of an amount of £28,000, so that a valid Service Charge request can be issued to all Leaseholders in respect of these urgent and necessary works.

*Yours Faithfully,
Brian Kennedy"*

4. This email followed a request from us to clarify the quotes and which was the preferred one.
5. It is in the light of the papers now presented and this email that we considered the matter

The Law

6. This is set out on the attached schedule

Findings

7. The application seeks dispensation from the consultation requirements imposed by s20 of the Act. The provisions allowing for dispensation are contained at s20ZA and in the Service Charge (Consultation Requirements)(England) Regulations 2003. Applying that section and the regulations we are prepared to grant dispensation in respect of the consultation requirements based on the quote supplied by PNSL.
8. Our reasons for granting dispensation are that there has been detailed consultation with the leaseholders, albeit not in strict compliance with the Act and the leaseholders are members of the Applicant Company. No leaseholder has expressed any objections to the application and certainly has not put forward any suggestion that dispensation will cause them prejudice. The work is clearly required.
9. What however we are unable to do in this application is to make any finding on the quantum of the costs of the works. We cannot make a finding granting dispensation to a specific amount above that which is contained in the quote from PNSL. The quote from PNSL contains a number of figures which make up the total sum expected to be spent. It

appears that the leaseholders have accepted that there may be sums in excess of the amounts contained in the PNSL quote once investigation work is undertaken.

10. Our finding is confined to the application to dispense. Any leaseholder is free to challenge the cost of the works and the standard of same. It is hoped however, that with the close involvement of the leaseholders to date and their apparent approval of the potential costs there will be no such challenge, assuming the work is carried out appropriately.

Tribunal Judge Andrew Dutton

5th August 2014

Relevant legislation

S20ZA Consultation requirements: supplementary

- (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 relation to any qualifying works or qualifying long term agreement, the tribunal may make the determination if satisfied 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
"qualifying long term agreement" means (subject to subsection (3)) an agreement entered into, by or on behalf of the landlord or a superior landlord, for a term of more than twelve months.
- (3) The Secretary of State may by regulations provide that an agreement is not a qualifying long term agreement—
 - (a) if it is an agreement of a description prescribed by the regulations, or
 - (b) in any circumstances so prescribed.
- (4) In section 20 and this section "the consultation requirements" means requirements prescribed by regulations made by the Secretary of State.
- (5) Regulations under subsection (4) may in particular include provision requiring the landlord—
 - (a) to provide details of proposed works or agreements to tenants or the recognised tenants' association representing them,
 - (b) to obtain estimates for proposed works or agreements,
 - (c) to invite tenants or the recognised tenants' association to propose the names of persons from whom the landlord should try to obtain other estimates,
 - (d) to have regard to observations made by tenants or the recognised tenants' association in relation to proposed works or agreements and estimates, and
 - (e) to give reasons in prescribed circumstances for carrying out works or entering into agreements.
- (6) Regulations under section 20 or this section—
 - (a) may make provision generally or only in relation to specific cases, and
 - (b) may make different provision for different purposes.
- (7) Regulations under section 20 or this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament