

11521



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

**Case Reference** : **CHI/21UD/LSC/2016/0065**

**Property** : **345 London Road, St.Leonards  
East Sussex, TN37 6PA**

**Applicant** : **Westone Properties Ltd**

**Respondent** : **(1) P.Mansell  
(2) L.Shuttleworth  
(3) D. Mills**

**Type of Application** : **s.27A LTA '85**

**Tribunal Member** : **Judge D Dovar  
Mr A.O.Mackay FRICS**

**Date of Decision** : **8<sup>th</sup> November 2016**

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**DECISION**

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1. This an application for the determination of the payability of service charges for the year ending 2016. The sole question being whether the proposed costs of major works to the roof and external and internal decoration are recoverable.
2. The application is dated 20<sup>th</sup> June 2016 and directions were issued on 18<sup>th</sup> August 2016 and were revised on 11<sup>th</sup> October 2016. The latter directions noted that the Respondents had not provided any response to the application and directed that the matter would be dealt with without an oral hearing, unless a party objected. No party has objected.
3. As set out above, the proposed works, for which it is intended to recover the costs through the service charge comprise roof works, internal and external decoration. The statutory consultation process was followed with regard to these works. As a result of that process, two tenders were received for the works. One from Janis Berners for the sum of £41,708, the other from 1066 Home Builders Ltd for £63,275. The former had been nominated by one of the leaseholders.
4. In response to the consultation process, Mr Mansell, through solicitors made the following observations in respect of concerns over the tender from Janis Berners:
  - a. They could find no details of this contractor and therefore had concerns over the quality of work;
  - b. During a previous consultation the tender report raised a concern that Berners' tender was too low;

- c. During that previous tender process, Berners had added VAT, their quote was now ex-VAT; that gave rise to concerns that their work was tailing off and about their reputation.
5. In response, the Applicant stated that:
  - a. Berners had been nominated by a tenant and so the impression was that they were recommended;
  - b. The revised quotes have been reviewed by Kingston Morehen (surveyors) who are satisfied with them and will be monitoring the works as they progress;
  - c. It is believed that Berners was not VAT registered at the time of the original quote, but if Mr Mansell wanted, this position could be checked.
6. There was no response to that letter, nor to these proceedings (other than attendance at the directions hearing in August 2016 by solicitors for Mr Mansell).
7. The issue before the Tribunal is not whether the works are required or whether they fall within the service charge provisions or even whether the statutory consultation process has been carried out, but is whether the Applicant is able to recover the cost of either of the proposed contractors.
8. The Tribunal having read the limited correspondence on the matter, notes the concerns as to Berners, but does not think that they are sufficient to discount that contractor, particularly given that they were a

nominated contractor. The issues raised by Mr Mansell are all speculative and do not appear to be pursued with much vigour.

9. In light of that, the Tribunal considers that the Applicant is not only at liberty to adopt the Berners tender, but given the significant disparity between the quotes (albeit due in the main to VAT) could not justify accepting the higher, 1066 quote.

A handwritten signature in black ink, appearing to read 'D. Dovar', with a long, wavy flourish extending to the right.

Judge D Dovar

## **Appeals**

A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application to the First-tier Tribunal at the Regional office which has been dealing with the case.

The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.

If the person wishing to appeal does not comply with the 28-day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28-day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.

The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking.