

**LONDON RENT ASSESSMENT PANEL**

**DECISION OF THE LEASEHOLD VALUATION TRIBUNAL ON AN APPLICATION  
UNDER SECTION 20ZA OF THE LANDLORD AND TENANT ACT 1985**

**Case Reference:** LON/00BG/LDC/2011/0123

**Premises:** 1-20 Stockholm Way, E1W 1YQ

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**Applicant:** Stockholm Way Management Company Limited

**Respondents:** The lessees of 1-20 Stockholm Way

**Leasehold Valuation  
Tribunal:** Mr M Martynski (Solicitor)  
Mrs H Bowers BSc(Econ) MSc MRICS

**Date of decision:** 8 February 2012

## **Decision summary**

1. Dispensation from the consultation requirements imposed by section 20 Landlord and Tenant Act 1985 in respect of works to the lift at 11-20 Stockholm Way is refused.

## **Background**

2. The property which is the subject of this application is a purpose built block of 20 flats served by two lifts.
3. On 23/24 November 2011 the lift serving flats 11-20 broke down. Engineers instructed by the Applicant confirmed that the lift in question required major works in order for it to be put back into operation.
4. The Applicant's agents sent a letter dated 24 November 2011 to all leaseholders explaining what had happened to the lift. With that letter they enclosed a first stage consultation notice describing the proposed works to the lift in general terms. That notice asked for responses by no later than 26 December 2011.
5. The application for dispensation was received by the Tribunal on 1 December 2011 and directions were given on 9 December 2011.
6. The application was served on all leaseholders by the Applicant. There were responses from seven flats; six of the responses supported the application.
7. Quotes were then obtained from two contractors for various works to the lift. Those quotes were dated 18 November and 14 December 2011. It is not clear from the quotes which of the works described were the urgent works required to restore the lift to working order. The Tribunal was not told if these quotes were sent to leaseholders or if any second stage consultation notice had been sent out to leaseholders with the estimates.

## **The issues and the Tribunal's decisions**

8. The only issue for the Tribunal was whether to grant dispensation from the consultation requirements set out in the regulations made under section 20 Landlord and Tenant Act 1985 (which are set out at the end of this decision).
9. In reaching its decision to refuse the application, the Tribunal considered that the repair works to the lift were not so urgent as to warrant the dispensation of the requirements to fully consult leaseholders.
10. The Tribunal noted in any event that, as two estimates had been received in December 2011 and as (so far as the Tribunal is aware) none of the

leaseholders had nominated contractors, the Applicant could have served a second stage consultation notice in late December 2011 or early January 2012. Such a notice would have expired by the end of January 2012 and contractors could have been instructed prior to the application being considered by the Tribunal.

11. The Tribunal further notes that it is not clear in any event which of the numerous works described in the copy estimates provided to it were proposed to be undertaken without full consultation.
12. In all the circumstances, the Tribunal considered that dispensation would not be reasonable.

Chairman:



Mark Martynski

Date:

8 February 2012

## EXTRACTS FROM THE RELEVANT LAW

### Landlord and Tenant Act 1985

#### **20ZA 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.]

## Service Charges (Consultation Requirements) (England) Regulations 2003

### SCHEDULE 4 CONSULTATION REQUIREMENTS FOR QUALIFYING WORKS OTHER THAN WORKS UNDER QUALIFYING LONG TERM OR AGREEMENTS TO WHICH REGULATION 7(3) APPLIES Part 2 Consultation Requirements for Qualifying Works for Which Public Notice is Not Required

#### *Notice of intention*

8

- (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*

9

- (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*

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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***

11

- (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***

**12**

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***

**13**

(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) where 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.