



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

Property : The Gables, Ransom Close, Watford,
WD19 4NG

Applicant : Hanover Housing Association

Respondents : The Lessees of Flats 1-39 at the Property

Case number : CAM/26UK/LDC/2013/0017

Date of Application : 22nd August 2013

Type of Application : Application to dispense with
consultation requirements in respect of
qualifying works - Section 20ZA Landlord
and Tenant Act 1985 as amended ("the
Act")

The Tribunal : David S Brown FRICS (Chair)
Judge Bruce M Edgington

**Place and Date
of Hearing** : 26th September 2013
at Unit 4c, Quern House, Mill Court,
Great Shelford, CB22 5LD

Date of decision : 26th September 2013

DECISION

The Tribunal orders that the landlord, Hanover Housing Association, shall be substituted as the Applicant.

The Tribunal grants dispensation from the consultation requirements in Section 20ZA of the 1985 Act and **The Service Charges (Consultation Requirements) (England) Regulations 2003** as amended ("the Regulations") in respect of the replacement of the two submersible sewage pumps and necessary associated works at the Property.

(NOTE This decision relates only to the dispensation from the consultation requirements. It does not give or imply any determination with regard to the cost and extent of the works or the standard of workmanship.)

STATEMENT OF REASONS

1. The application was submitted by Sandra Thompson, the Operations Manager of Hanover Housing Association. The Tribunal considers that the landlord ought to be the Applicant.
2. Directions issued on 6th September informed the parties that they did not have to attend the hearing and may submit written representations. No representations were submitted.

The Application

3. The application states that dispensation is required in respect of urgent works relating to the waste management pumping station, which controls the flow of sewage from the estate into the main drainage system. The qualifying works include replacement of the two submersible pumps, one of which is working below capacity and one has completely failed. Both are beyond economical repair. Other works identified include a new replacement control panel including audible alarm and flashing beacon, new floats and gate valves and replacement of fractured sewage pipework leaking raw sewage into the surrounding soil affecting the water table.
4. The Applicant states that if the second pump breaks down then the whole scheme at The Gables will be without an effective sewage management system. It has also been noted that raw sewage is leaking out of pipework at the bottom of the pit. Any delay in resolving the issues within the pumping station through the normal consultation process could cause environmental problems with underground water supplies. There are health and safety implications if both pumps fail and there will be additional costs involved to maintain the status quo. The fractured pipework and the leak may deteriorate further, there could be serious health implications as raw sewage could flow out from the pump house causing a major public health issue to the residents and the neighbouring properties.

The Statutory Framework

5. The purpose of Section 20 of the 1985 Act as now amended by the **Commonhold and Leasehold Reform Act 2002** ("the 2002 Act") and the Regulations is to provide a curb on landlords incurring large amounts of service charges or entering into long term agreements, which would involve tenants paying large amounts of money.
6. The consultation requirements in the Regulations are extensive and include:-
 - (a) The service of a notice on each tenant of an intention to undertake works. The notice shall set out what the works are and why they are needed or where particulars can be examined. It shall invite comments and the name of anyone from whom the

- landlord or the landlord's agent should obtain an estimate within a period of not less than 30 days.
- (b) The landlord or landlord's agent shall then attempt to obtain estimates including from anyone proposed by a tenant.
 - (c) At least 2 detailed proposals or estimates must then be sent to the tenants, one of which is from a contractor unconnected with the landlord, and comments should be invited within a further period of 30 days
 - (d) A landlord or landlord's agent must take notice of any observations from tenants, award the contract and then write within 21 days telling everyone why the contract was awarded to the particular contractor.
7. The 2002 Act transferred jurisdiction for the waiving of these requirements from the courts to Leasehold Valuation Tribunals. The jurisdiction has subsequently been transferred to this Tribunal.

The Hearing

8. The hearing was attended by Sandra Thompson.
9. Ms Thompson informed the Tribunal that one pump broke down around 19th August and as a result the other pump is over-heating and malfunctioning. The pumps serve the flats and the adjoining bungalow. If the second pump fails, the sewage will back up because the connection to the main sewer is uphill.
10. A meeting was held with the residents on 30th August at which the problem was explained and details of a quotation were provided. This information was given to residents unable to attend that meeting by letter. Since then, a lower quotation has been received which has also been notified to the Respondents. No contractor has been nominated by any Respondent.
11. Ms Thompson produced a report by John Hutchinson who, she said, is a mechanical specialist. The report, including photographs, shows the sewage pit full of foul waste and water, the pumps lying down instead of standing upright, and other defects. A letter from Millstone Mechanical Services Limited, dated 10th August 2008, confirms that there are a number of defects in the system.
12. Two written quotations were produced, one for £11,600 excluding VAT and one for £5,458.75 plus £650 per day for tanker with jetter and £45 per 1000g, all excluding VAT. These were provided to the Respondents together with a copy of the application.

Conclusions and Decision

13. The Tribunal is satisfied that there is a serious public health risk from raw sewage leaking into the ground water and the potential for a serious health risk to occupants of the Property if the second pump

fails, and that it is necessary to attend to the sewage system urgently in order to eliminate these risks.

14. The Respondents have been informed of the nature of the problem, the repairs required and the likely cost. None of them have submitted representations objecting to the proposed works or to the application. The Applicant has obtained two competitive quotations. The Tribunal concludes that there will be little or no prejudice caused to the Respondents by dispensation with the consultation requirements.
15. The Tribunal therefore concludes that it is reasonable to dispense with the consultation requirements.

Signed:

D S Brown FRICS (Chair)

Any party to this application may appeal against the Decision with the permission of the Tribunal. The provisions relating to appeals are set out in Rule 52 of the Tribunal Procedure (First-tier Tribunal)(Property Chamber) Rules 2013. A request for permission to appeal must be made within 28 days after the date that the Tribunal sends the written reasons for the decisions to that party.

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