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RESIDENTIAL PROPERTY TRIBUNAL
LEASEHOLD VALUATION TRIBUNAL

Reference:LVT/0044/02/23

In the Matter of Premises at 1-73 Quayside Apartments and 1-3 Oval Basin, Cardiff Bay, CF10 5BX

And in the matter of an Application under Section 20ZA of the Landlord and Tenant Act 1985

Applicant: Quayside Management Company (Wales) Limited

**Respondents: Tenants
1-73 Quayside Apartments
1-3 Oval Basin**

Type of Application: To dispense with the requirement to consult lessees concerning qualify works.

**Tribunal: Colin Green (Chairman)
Roger Baynham FRICS (Valuer Member)**

Applicant Representation: Marc Hurn of Warwick Estates Property Management Limited

Date of determination: 12 July 2023

DECISION

The Tribunal accepts the withdrawal of the application.

REASONS FOR DECISION

1. This is an application by the Applicant, Quayside Management Company (Wales) Limited, for dispensation of the consultation provisions under section 20 of the Landlord and Tenant Act 1985, pursuant to section 20ZA.

2. For present purposes, the relevant background is that the work in question is in respect of the windows to three residential units – 62, 69, and 73 – at Quayside Apartments, which consists of residential units and three commercial units. NHBC have agreed to fund 88.41 per cent of the cost of such works, but not 11.59 per cent as a liability attributable to the three commercial units.
3. Although the matter was originally listed for a paper determination on 28 June 2023, the Tribunal was unclear as to the reason for the application and accordingly requested that there be a video hearing with Marc Hurn, a director of Warwick Estates Property Management Limited, the Applicant’s managing agent.
4. That hearing took place on 12 July, at which Mr. Hurn stated that none of the cost of the work would form part of the service charge for the residential units and that the shortfall of 11.59 per cent would be borne entirely by the commercial units. On that footing he accepted that the consultation requirements of section 20 would not apply to the shortfall and therefore there was no need for those requirements to be dispensed with. In the light of this Mr. Hurn confirmed that the Applicant wished to withdraw the application, which the Tribunal accepted.
5. Dated this 12th day of July 2023.

Colin Green
Tribunal Judge

APPENDIX

The Service Charges (Consultation Requirements) (Wales) Regulations 2004

SCHEDULE 4

CONSULTATION REQUIREMENTS FOR QUALIFYING WORKS OTHER THAN WORKS UNDER QUALIFYING LONG TERM AGREEMENT 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

1. (1) The landlord shall give notice in writing of 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.

- (1) 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

2. (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

3. 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

4. (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) a summary of any observations made in accordance with paragraph 3 and the landlord’s 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

5. Where, within the relevant period, observations are made in relation to the estimates by any tenant or recognised tenants' association, the landlord shall have regard to those observations.

Duty on entering into contract

6. (1) Subject to sub-paragraph (2), where the landlord enters into a contract for the carrying out of qualifying works, the landlord 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 reasons for awarding the contract or specify the place and hours at which a statement of those reasons may be inspected; and
 - (b) where observations are made to which (in accordance with paragraph 5) the landlord was required to have regard, summarise the observations and set out the landlord's 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.

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.