

Our Ref: T:\1460.1\1\030728.TB/AIM
Your Ref:

31 July 2003

Ms N K-Dit-Rawé

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Dear Noëlle

JEFFERSON HOUSE – INTERPRETATION OF THE 17 JUNE 2003 LEASEHOLD VALUATION TRIBUNAL (LVT) DECISION

Thank you for your letter with enclosures dated 21 July 2003. Further to our previous discussions on this matter since we received the determination from the Leasehold Valuation Tribunal I am writing this report as a summary of my interpretations of the following documents:

- Killby & Gayford's original specification of works (Part III) – total contract value £564,467.00 dated 2 July 2002.
- Decision by the Residential Property Tribunal Service – Ref: LVT/SC/007/120/02 incorporating recommendations.
- Killby & Gayford's revised specification (Part III) together with your cover letter dated 21 July 2003 together with enclosures to the District Judge and recent correspondence from the landlord's solicitors CKFT.

In the first instance I would like to clarify my own interpretation of the findings made by the LVT and the effect on the original specification of works by Killby & Gayford as per their original submitted schedule dated 2 July 2002.

Noted below is a summary of the reductions, which I consider the Tribunal have suggested as part of their decision on this case works:

Summary of Reductions Determined by the LVT:

- Preliminaries - 3.01 to 3.03 reduce figure from £58,085.00 to £40,000.00. **£18,085 reduction**
- Item 3.07 - Timber provisional repairs reduce figure from £7,500.00 to £3,500.00. **£4,000.00 reduction**
- Item 11.02 - Duplication of item. **£1,000.00 reduction**
- Item 11.02 - Reduction unclear - not included in totals.

Chartered surveyors and commercial property consultants specialising in investment acquisition and management; business space lettings; rent reviews, lease renewals and valuations; business rates, taxation and compulsory purchase; building surveys; design; fit-out and project management; facilities; property asset management and consultancy; for corporates and investors in property

- Item 13.05 - Duplication of item - **£748.00 reduction**
- Item 13.09 - item considered an improvement - **£1,500 reduction**
- Item 14.06 - provisional sum for basement waterproofing works reduced from £10,000.00 to £2,000.00. **£8,000.00 reduction**
- Item 14.10 - Provision of Porter's Desk considered improvement - remainder duplicated. **£20,000.00 reduction**
- Item 14.11 - Reduction in paint specification from £18,315.00 to £15,000. **£3,315.00 reduction**
- Item 14.15 and 14.16 - LVT considers improvement works but no figure as no breakdown in the specification
- Item 14.20 and 14.21 - Works not agreed. **Reduction £7,110.00**
- Item 16.07 - Items relating to heating and hot water services disallowed under 19(2B). Reduction or implications cannot be determined
- Item 16.23 - Item considered improvement - **Reduction of £23,500.00**
- Item 16.25 & 16.26 - Lift works reduced from £60,000.00 to £27,300.00. **£32,7000 reduction.**
- Item 17.03 - Reduction of drainage works from £15,000.00 to £5,000.00. **£10,000.00 reduction**

Total amount of reductions (excluding those achieved from using the existing sinking fund) = **£129,958.00**

I would point out that this breakdown of reductions above does not allow for many of the general comments that the Tribunal has made regarding the vagueness of the specification, particularly for a number of the services elements included, which, as it states, unfortunately has no jurisdiction to influence. As the services element of the works is substantial, I do not think that without suitable firming up of the specification, particularly in this area, enables the contractor to correctly specify these works, although the same should be said for the entire works section resulting in a lack of adequate information.

As per our previous discussions, the services works from Killby & Gayford's original specification is split in the areas as noted below. These were not broken down by the contractor on an item by item basis, which was criticised by the Tribunal.

- Items 16.01 – 16.19 - services, which include replacement of the boiler, pumps, etc - **£89,824.00.**
- Items 16.19 – 16.19 - electrical services - **£54,921.87.**

Total (excluding fire alarm installation/lift which the Tribunal has commented on separately - £23,500) = **£144,745.87**



The service engineer used by Brian Gale Associates, Michael Jones Associates, confirmed during the hearing that he had prepared a condition report on the services and given budget figures for replacement and improvement works. They were not instructed to prepare a schedule of works. This resulted in Mr. Gale, who is not a qualified service engineer, preparing the services specification based on a specialist's visual inspection only. This is certainly not standard practice and whilst the revised specification has lump sum costs broken down into the various sections, this section has not been re-specified where I believe it should have been. Again there is no specification for the type of boiler, the number of light fittings, the quality, etc. I do not consider this acceptable. Even Mr Gale (see second comment below) by his own admission, considers the specification to be imprecise and in need of further detail. This has not happened in the revised schedule. The notes below have been taken from the LVT decision – reference LVT/SC/007/120/02.

- Point 46. In this case the Tribunal was frustrated by the lack of detail in the specification and Mr Gale's evidence. **Works were clearly not identified, were not measured where they clearly could have been and there was some element of duplication.** Some items were not specified at all eg the types and capacity of the boilers.
- Page 7 - 14.14 Having regard to the rewiring of the common parts, The Tribunal is satisfied that the replacement of the light fittings in the common areas is in accordance with normal practice. According to the evidence, the proposed new fittings will lead to saving in future running costs. **However, Mr Gale admitted that the specification was imprecise and required further detail.**
- It would appear to the Tribunal from the above (referring to Mr Jones' report) and the evidence given by Mr. Jones, that his instructions were obviously client lead rather than an independent opinion and, as stated above "part of a general building overhaul intended to raise the condition of the building to one commensurate with its age, style and location"

Revised Specification from Killby & Gayford (No date or reference provided):

In order to determine whether or not the landlord has fully considered and incorporated the decision of the LVT, I have summarised below my analysis of Killby & Gayford's revised specification comparing this to my interpretation of the recommendation from the Tribunal and, as appropriate, note in brackets whether the LVT's decision has been incorporated.

- Item 3.01-3.03 - Preliminaries have been reduced to £40,000.00 (incorporated)
- Item 3.07 – Timber repairs have been reduced to £3,500.00 (incorporated)
- Item 11.02 – Reduction on specification of only £1,000; (the LVT recommended a reduction of £2,000..)
- Item 11.02 – No reduction on specification of £2,900.00.
- Item 13.05 – Item removed from schedule – reduction of £748.00 (incorporated)



- Item 13.09 – Specification has been reduced by £1,500 (incorporated)
- Item 14.06 – Specification has been reduced by £8,000 (incorporated)
- Item 14.10 – Porters desk not included, reduction of £20,000. NB: Revised specification still includes a page of contingency and provisional sums which totalling £110,000 and headed "The below listed sums are provided for the assistance of the contractor but should be included within each section as specified", which includes this figure, although the total project costs do not reflect this amount.
- Item 14.11 – Reduction of paint specification to £15,000 included (incorporated)
- Item 14.15 (installation of air conditioning unit) and 14.16 (installation of mechanical ventilation) – No reduction obvious as breakdown not provided on the specification document. (See below for details.)
- Item 14.20 and 14.21 – Item for fire doors removed (incorporated)
- Item 16.07 – central heating installation, although most services works have now been broken down, elements comprised under this item have not. Hence, specification no clearer and cost reduction cannot be determined. (See below for details.)
- Item 16.23 – Installation of Fire Alarm has been removed from revised specification (incorporated)
- Item 16.25 and 16.26 – Reduction of lift works to £27,300.00 confirmed on revised specification although an additional £2,951.75 for overheads and profits has been added. This was not agreed by the Tribunal.
- Item 17.03 – Item reduced to £5,000 as recommended by the Tribunal.

One other major change in the revised specification provided by Killby & Gayford is that the services elements have now been broken down on an item by item basis - except item 16.06-16.07, as detailed above - which unfortunately makes it less clear when comparing this with their original specification.

These various sections are broken down as follows:

- Item 16.01-16.03 £350.00
- Item 16.04-16.05 £1,635.00
- Item 16.06-16.07 £22,365.00
- Item 16.08-16.09 £620.00
- Item 16.10-16.11 £11,730.00
- Item 16.12-16.13 £300.00

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- Item 16.14-16.15 £17,975.00
- Item 16.18-16.19 £54,921.87

Total cost for services (excluding lift and fire alarm) = £109,896.87

As you note from the original specification, the revised schedule shows a reduction in the total cost of services of £34,849.00 contained under items 16.01 – 16.19 of £34,849.00, ie £144,745.87 - £109,896.87. There is no explanation from Killby and Gayford for this reduction or what directions they have followed from the Tribunal's decision. This reduction still does not change the fact that it is possible that further cost reduction would occur if the works were correctly specified.

Hence:

- The reductions I detailed on page 1 and 2 of my letter, which I calculate amount to £129,958.00 have been incorporated in the revised specifications
- Items amounting in total to £144,745.87 for which the Tribunal was unable to make a decision due to lack of specification have been reduced to £109,896.87

Other Matters:

I have calculated the summary of total costs for the works under Part III of Killby & Gayford's "revised price" specification and it appears the total amount included is incorrect. The correct figure should total £309,060.00 not the £312,011.75 stated.

I note that as part of the total cost of the works, the contractor has now included a tender price increase of 6.45%. In the first instance, I think we need to see justification on this calculation and the period to which they say this relates. Secondly, it is clear from the comments made by the Tribunal that the specification and method of organising these works are below standard. On this basis I do not see the additional cost for tender price increase to be the responsibility of the residents.

The Tribunal also suggests that the sinking fund for the building be used as a contribution toward the cost of the works (points 62 and 63 on page 14 of their report). There is no indication that this has been considered from either the revised specification or the breakdown of your contribution payable, as submitted by Martin Russell Jones.

Some of the reductions that are contained within the revised specification are only "theoretical" savings on the basis that these relate to provisional sums. Provisional sums, on any project, need careful supervision and policing. In many cases, the contractor can abuse provisional sums, on the basis these are not fixed costs. It is common that on completion many of the provisional sums items have been expended in their entirety, when in theory the quantity of work being claimed has not been carried out. It is possible that provisional sums can be exceeded (because they are not fixed) and the contractor recovers from tight costs included elsewhere in the specification.

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Conclusion:

Whilst on the surface it may appear that all recommendations made by the LVT have been incorporated within this revised specification, key points have been only partly addressed or missed entirely. These are hopefully made clear within this report.

There is no doubt that the results in the LVT's decision have resulted in saving being achieved but unfortunately for the reasons noted, in my opinion, it does not go far enough in addressing your original concerns.

Whilst writing, please find enclosed my invoice for your kind attention.

If I can be of any further assistance then please do not hesitate to contact me.

Yours sincerely


PP TIM BROCK
for LSM Partners

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