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**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/00BK/LDC/2012/0033

**Premises:** Wesley Court, 51 – 55 Weymouth Street, London  
W1G 8NN

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**Applicant:** Wesley Court RTM Company Limited

**Respondents:**

- (1) Zulfikar Remtulla Jetha and Shelina  
Zulfikar Remtulla Jetha
- (2) Sarah Jane Watters
- (3) Robert Henriques Valentine and  
Patricia Hazel Fisher
- (4) Alan John Ferrett
- (5) Kevin Fine
- (6) Jocki Nyman
- (7) Konsantinos George Verdis and Fotini  
Verdis
- (8) Georgios Verdis
- (9) Timothy Stern
- (10) George Jamieson Ross Mchardy,  
Valentine Urie Mchardy and Robert  
Dewar Mchardy
- (11) Ingrid Kaplan

**Date of determination:** 16th May 2012

**Leasehold Valuation  
Tribunal:**

Mr. A Vance (Chair)  
Ms Flynn

**Date of decision:**

17<sup>th</sup> May 2012

## Decision of the Tribunal

1. The Tribunal's refuses the Application for dispensation from the consultation requirements for qualifying works made under section 20ZA of the Landlord and Tenant Act 1985 in respect of intended lift works.


## Introduction

2. This is an application made under section 20ZA of the Landlord and Tenant Act 1985 ("The Act") for a determination permitting the Applicant to dispense with the consultation requirements set out in Section 20 of the Act and the regulations made under that section namely the Service Charges (Consultation Requirements) (England) Regulations 2003.
3. The application concerns the building at Wesley Court, 51 – 55 Weymouth Street, London W1G ("the Building") a block comprising 11 flats. It is the Applicant's case that the 11 Respondents to this Application are the 11 Lessees for the flats in question.
4. By way of a paper determination dated 4<sup>th</sup> May 2012 this Tribunal granted the Applicant's request for dispensation from the statutory consultation procedures in respect of external works to the roof but adjourned the part of the Application relating to lift works with the following directions :
  1. The Applicant must by no later than **11<sup>th</sup> May 2012** write to the Tribunal and send to the Respondents a statement setting out the reasons as to why it is contended that the statutory consultation procedure should be dispensed with in respect of the lift works. That statement should address the issue of why the works are considered to be urgent and should be accompanied by copies of any relevant documents on which the Applicant relies including any specifications, reports, photographs, estimates or quotations obtained in respect of the proposed works.
  2. Any Respondent who wishes to make representations regarding the proposed dispensation order relating to the lift works must no later than **11<sup>th</sup> May 2012** write to the Tribunal and send to the Applicant a statement setting out those representations and attaching any relevant documents.
  3. This Application is adjourned and reserved to the current Tribunal who will determine the application on the basis of the written representations and documents received in the week commencing **14<sup>th</sup> May 2012**.

5. Those directions were made because the Tribunal was not satisfied on the information available that the works to the lift are so urgent as to dispense with the consultation procedures.
6. The Tribunal sees no need, in this decision, to repeat the factual background to the application, its procedural history or the relevant legal provisions. These are set out in the decision of 4<sup>th</sup> May 2012.
7. On 8<sup>th</sup> May 2012, in response to the Tribunal's directions, the Tribunal received a letter from the Property Manager of the Building, Vision Property & Estate Management UK Limited in which it is stated that "the current lift is unsafe and in need of repairs. The repairs that we are putting forth are not a complete overhaul however we have been advised the repairs will make the lift safe and last another year which will give the leaseholders time to save. All eleven leaseholders are in support of the lift repair works and are eager to start them."
8. Accompanying that letter were two quotes, one quote from The Swift Lift Co UK Ltd and the other from Amalgamated Lifts Limited.
9. No representations have been received from any of the Respondents.

#### **The Tribunal's Decision and Reasons**

10. The Tribunal is not satisfied on the available evidence that the remedial works in question are sufficiently urgent to warrant dispensing with the consultation requirements.
11. The two quotes that have now been sent to the Tribunal refer (amongst other matters) to the control panel being obsolete and the need for both it and the over speed governor to be replaced. In the Tribunal's view, apparent obsolescence and the need for replacement does not necessarily mean that the lift is unsafe or that urgent works are required. There is no reference to the current installation being unsafe in either of the quotes supplied nor is there any other evidence to support the Applicant's assertion that these works are required urgently. The Tribunal is still unaware what the reference to the insurance claims in the Application relates to.
12. By previously adjourning this part of the Application the Tribunal afforded the parties the opportunity to submit further evidence. It is not persuaded that the documents now received warrant dispensation from the statutory procedure.

Chairman:   
Mr. A. Vance

Date: 17/5/12

## Appendix of relevant legislation

### 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.

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

#### **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 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*

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) 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*

5. 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*

6. (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.