

**RESIDENTIAL PROPERTY TRIBUNAL SERVICE**  
**SOUTHERN RENT ASSESSMENT PANEL**  
**SOUTHERN LEASEHOLD VALUATION TRIBUNAL**

**IN THE MATTER OF AN APPLICATION UNDER SECTION 20ZA  
LANDLORD & TENANT ACT 1985**

**Case No. CHI/21UG/LDC/2010/0009**

Re: Cavendish Court, De La Warr Parade, Bexhill-on-Sea, East Sussex TN40 1NP

BETWEEN:

Cavendish Court (Bexhill) Residents Company Limited  
("The Applicant/Landlord")

and

THE LESSEES  
("The Respondent/Tenants")

Date of Application: 11<sup>th</sup> March 2010

Date of Directions: 15<sup>th</sup> March 2010

Date of Hearing: 25<sup>th</sup> March 2010

Members of the Tribunal: Mr J.B. Tarling, Solicitor, MCMI  
Mr J.N. Cleverton FRICS

Date Decision issued: 6<sup>th</sup> April 2010

**REASONS FOR THE DECISION**

**BACKGROUND TO THE APPLICATION**

1. This Application is made under Section 20ZA(1) of the Landlord and Tenant Act 1985 ("the 1985 Act") to dispense with the consultation requirements of Section 20 of the 1985 Act. Regulations made under the 1985 Act are set out in the Service Charges (Consultation Requirements)(England) Regulations 2003 (SI No. 2003 No. 1987) ("the Consultation Regulations").

2. Where there are matters which require urgent attention there are powers under the Leasehold Valuation Tribunals (Procedure)(England) Regulations 2003 (SI No. 2003 No. 2099), ("the Procedure Regulations") for the Tribunal to deal with matters very quickly. In particular Regulation 14(4) allows the tribunal in exceptional

circumstances and without the agreement of the parties to give less than 21 days notice of any hearing of an application.

3. This Application was received at the Tribunal Office shortly after 12<sup>th</sup> March 2010. The matter was reviewed by a Procedural Chairman on 15<sup>th</sup> March 2010 and in view of the exceptional circumstances and the urgent nature of the application as set out in the Application Form and the supporting papers, a decision was made to hold an urgent Hearing. Those exceptional circumstances were that there was an immediate risk of danger to the health and safety of the occupiers of Flats in the Block due to the Passenger Lift not being able to be used. In particular some of the Lessees living on the upper floors of the Building are elderly. Urgent repairs were needed to the Lift and for these reasons a decision was made in accordance with regulation 14(4) of the Procedure Regulations to waive the requirement of giving 21 days notice to hold a hearing to decide the Application.

4. Directions were given on 15<sup>th</sup> March 2010 requesting the production of various documents relevant to the matters contained in the Application Form and the supporting documents. The matter was set down for a Hearing on 25<sup>th</sup> March 2010 (10 days later). Those Directions and details of the Hearing were immediately sent to all the Lessees of the Flats affected by the Application and if they wished to object to the applications, they were invited to attend the Hearing, when they would have an opportunity of being heard.

#### INSPECTION

5. The Tribunal members inspected the Building on the morning of the Hearing, the 25<sup>th</sup> March 2010, in the presence of Mr B. Shutt, the Lessee of Flat 23 and one of the Directors of the Landlord Company. Also present was Susan Cary from Godfrey John & Partners, the Managing Agents. The Building is six storeys high and contains 39 Flats and a number of garages, below the Building. The Lift was working at the time of the Inspection and the Tribunal members used it to reach the Sixth (Top) Floor of the Building where the Lift Motor Room was situated. The Tribunal members climbed a ladder to reach the Lift motor room which housed the Lift motor controls. These were situated in locked cupboards, but the apparatus seemed to be quite old. On returning to the Lift, the Tribunal members entered the Lift and pressed the button to reach Floor Three. The Lift stopped at Floor One instead of Floor Three, even though the Floor Indicator in the Lift showed it to be at Floor 3. When the Lift reached Floor Three the floor of the Lift was not level with the landing floor and there was a large gap which could be dangerous to an elderly or infirm person.

#### HEARING

6. A Hearing took place at Bexhill-on-Sea Town Hall immediately after the Inspection. The Landlords were represented by Mr B. Schutt, a Director and he was accompanied by Mr A. Samuels and Mr D. Skipp both from Godfrey John & Partners, the Managing Agents. The only Lessee to attend the Hearing was Mr J.F. Page, the Lessee of Flat 23. Mr Page said he supported the Application and was keen to get the work carried out quickly. A letter has been received from Mrs G. Clayton the Lessee of Flat 3 who said she was unable to attend the Hearing. She did not say if she supported the application or not.

7. In accordance with the Directions made by the Tribunal on 15<sup>th</sup> March 2010, a bundle of documents was produced in support of the Application. These included a copy of the Notice of Intention to carry out Lift repair works which had been served on all Lessees on 11<sup>th</sup> March 2010. There was also a copy of a letter from East Sussex Lifts Limited to Godfrey John & Partners dated 10<sup>th</sup> March 2010 which set out the Specification of the proposed works at a price of £9,995 plus VAT @ 17.5 %, making a total of approximately £11,744. There were 39 Flats in the Building which would have made each Flat liable to pay approximately £300 each towards the works. This amount was approximately £50 above the Statutory Limit of £250 below which no such Consultation would have been required.

8. Mr Samuels gave evidence to the Tribunal and briefly outlined the background to the Application and the proposed works. A Notice of Intention to carry out works had been served on all the Lessees and no Lessee had objected or commented. No Lessee had contacted him to nominate an alternative Contractor, nor had any Lessee objected to the works or the proposed cost of them. He said that if the full Consultation Procedures were followed the work would not be able to be started until July. He was asking the Tribunal to grant dispensation for all of the remaining provisions of Part 2 and Regulations 8 to 13 of the 2003 Consultation Regulations.

#### CONSIDERATION

9. Following the Hearing the Tribunal retired briefly to consider the application. One Lessee had attended the Hearing to support the application. No Lessee had contacted the Managing Agents to object or nominate an alternative contractor. No Lessee had contacted the Tribunal to make oral or written representations or comment on the Tribunal's Directions.

10. The Tribunal reminded itself of the statutory provisions. It was important to balance the inconvenience being suffered by some Lessees against the requirements of natural justice. It was concerned that all Lessees should have had the opportunity of commenting on the proposals, to which they would all ultimately have to contribute. The Tribunal noted that the general provisions of Section 20 were put in place by Parliament to specifically provide protection for Lessees against the actions of less scrupulous Landlords. The Tribunal reviewed the evidence and were satisfied that the Lessees had been well aware of the proposals for the lift repairs which are proposed. It was satisfied that from the evidence given, no Lessee had objected to the proposals. Accordingly for the reasons given above the Tribunal decided it was appropriate to Order that the consultation requirements of Section 20 be dispensed with and that there was an urgent need for the works to commence without further delay. In the circumstances the Tribunal made the Order attached. The Tribunal announced its Decision orally after the end of the Hearing.

11. In making this Decision the Tribunal expresses no views whatsoever about the reasonableness or otherwise of the cost or standard of the proposed lift repair works and that the Order now being made does not preclude an Application by any party under Section 27A of the 1985 Act (Section 155 of the 2002 Act). The Tribunal has not considered the matter of who would be liable to pay or contribute to the costs of

these works. That might have to be the subject of a separate Application to the Tribunal under section 27A of the 1985 Act by any Lessee or the Freeholder at some stage in the future.

Dated this 6<sup>th</sup> April 2010

A handwritten signature in black ink, consisting of a large, stylized initial 'J' followed by a long, sweeping horizontal line that ends in a small upward curve.

John B. Tarling, Solicitor, MCMC  
(Chairman)

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Re: Cavendish Court, De La Warr Parade, Bexhill-on-Sea, E. Sussex TN40 1NP

BETWEEN:

Cavendish Court (Bexhill) Residents Company Limited  
("The Applicant/Landlord")

and

THE LESSEES  
("The Respondent/Tenants")

**IN THE MATTER OF AN APPLICATION UNDER SECTION 20ZA  
LANDLORD & TENANT ACT 1985**

**ORDER**  
**OF THE LEASEHOLD VALUATION TRIBUNAL**

On Hearing the parties and their representatives IT IS HEREBY ORDERED under Section 20ZA(1) of the Landlord & Tenant Act 1985 (The Act) that dispensation to comply with all the requirements of Section 20 of the Act and Part 2 of the Service Charges (Consultation Requirements)(England) Regulations 2003 is hereby granted in respect of the proposed lift repair works at the Premises as set out in the letter dated 10<sup>th</sup> March 2010 from East Sussex Lifts Limited to Godfrey John & Partners. In particular this dispensation relates solely to the replacement V V V F Lift Controller and the work associated with it as set out in that letter.

DATED this 6<sup>th</sup> day of April 2010



John B. Tarling, Solicitor, MCFI (Chairman)