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**Leasehold Valuation Tribunal**

**Case Reference** : CAM/12UB/LDC/2013/0010

**Property** : Churchill Court,  
41 Madingley Road,  
Cambridge CB3 0EL

**Applicants** : Cambridge West Management Co. Ltd.

**Respondents** : The Leaseholders of 19 flats at the  
property

**Date of Application** : undated but received 3<sup>rd</sup> June 2013

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

**Tribunal** : Bruce Edgington – lawyer chair  
Stephen Moll FRICS

**Date and place  
of hearing** : 13<sup>th</sup> June 2013  
Unit C4 Quern House, Mill Court,  
Great Shelford, CB22 5LD

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**DECISION**

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1. The tribunal determines that it is reasonable to dispense with the statutory consultation requirements of s.20 of the Landlord and Tenant Act 1985 ("the Act") in relation to the repairs to make the lift at the property operational and, by this decision, does so.

**REASONS**

**Background**

2. On the 3<sup>rd</sup> June 2013, the tribunal received the application under Section 20ZA of the Act for dispensation from all or any of the consultation requirements contained in Section 20 of the Act in relation to repairs to the only lift at the property. The application made it clear that the lift had broken down and that Kone, who maintain the lift, had made a written report saying that a replacement

inverter drive unit and braking resistor were needed. The cost of replacement together with weight test and re-commissioning was £5,522.50 plus VAT.

3. In addition it was stated that lessees who are over 85 years of age live on the top floor and physically struggle with the stairs which means that they are "*somewhat confined to their flat*". They are also expecting visitors shortly, one of whom uses a walking aid.
4. The applicants say that they have sent an e-mail notice to all lessees who have e-mail addresses appraising them of the situation and a copy of that message was enclosed with the application. There are some responses which are supportive of the works and none against. Additionally, the applicants say that they have telephoned the lessees who do not have e-mail addresses and there have been no objections to these works being undertaken by Kone.
5. Notice of the application together with information from the Residential Property Tribunal Service was given to the leaseholders of the 19 flats at the property. Additionally, a letter was written to all leaseholders on the 4<sup>th</sup> June 2013 including a direction that any Leaseholder who wanted to make representations do respond immediately. None were received.
6. The Tribunal considered that this matter was urgent enough to warrant an abridgement of the normal 21 day notice period for a hearing in accordance with Regulation 14(4) of the **Leasehold Valuation Tribunals (Procedure) (England) Regulations 2003** bearing in mind the circumstances outlined above.

#### **The Law**

7. Section 20 of the Act limits the amount which tenants can be charged for major works unless the consultation requirements have been either complied with, or dispensed with by a leasehold valuation tribunal. The detailed consultation requirements are set out in Schedule 4, Part 2 to the **Service Charges (Consultation Requirements) (England) Regulations 2003**. These require a Notice of Intention, facility for inspection of documents, a duty to have regard to tenants' observations, followed by a detailed preparation of the landlord's proposals. The landlord's proposals, which should include the observations of tenants, and the amount of the estimated expenditure, then has to be given in writing to each tenant and to any recognised tenant's association. Again there is a duty to have regard to observations in relation to the proposal, to seek estimates from any contractor nominated by or on behalf of tenants and the landlord must give its response to those observations.
8. Section 20ZA of the Act allows a Leasehold Valuation Tribunal to make a determination to dispense with the consultation requirements if it is satisfied that it is reasonable.

#### **The Facts Found**

9. As none of the facts set out in the Introduction to these reasons were disputed by any Respondent, the Tribunal found them to be true facts.

**The Inspection**

10. In view of the agreed facts and the report from Kone, a well known and well established company of lift manufacturers, the Tribunal did not consider that a site inspection was necessary.

**The Hearing**

11. The hearing was fixed because the procedural regulations governing this type of application say that to deal with an application without a hearing, it is necessary to give every party 28 days' notice in writing. Thus the parties were given a hearing date and were told that if no-one turned up, a decision would be made in their absence. In fact no-one did turn up at the hearing.

**Conclusions**

12. The lift is clearly not working and the Applicant management company has obtained a quotation from a specialist company who maintain it. There is no suggestion that the management company or the landlord on the one hand or the company from whom the quotation has been obtained on the other hand are connected in any way. The inference which the Tribunal draws from this is that going through the prolonged consultation procedure is unlikely to produce a much cheaper quotation which is relevant when considering this issue. The whole basis for the consultation procedure is to ensure that tenants are not charged excessive amounts for major works.
13. As the evidence is that the upper floor of this block does include occupants who are likely to have physical difficulty in using the stairs, particularly carrying shopping and other day to day necessities, the Tribunal considers that it is reasonable to dispense with the statutory consultation requirements.
14. This application only asks the Tribunal to dispense with the consultation requirements. It is not an application to consider the reasonableness or payability of the service charge. If there is any dispute about those matters, then it will have to form the basis of an entirely separate application although it has to be said that if the works proceed as envisaged by Kone at the cost anticipated, any objector would have some difficulty in persuading a subsequent Tribunal that the cost was unreasonable.

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**Bruce Edgington**  
**President**  
**13<sup>th</sup> June 2013**