

8 736



HM Courts
& Tribunals
Service



Residential
Property
TRIBUNAL SERVICE

LONDON RENT ASSESSMENT PANEL

**DECISION OF THE LEASEHOLD VALUATION TRIBUNAL ON AN APPLICATION
UNDER SECTION 20ZA OF LANDLORD AND TENANT ACT 1985**

Case Reference: LON 00AW/LDC/2012/0148

Premises: Lansdowne House Lansdowne Road London W11 3LP

Applicant: Represented by	Lansdowne House Residents Association MJS Block Management Limited	
Respondents:	Mr and Mrs J Lovelock Roxdale Properties Limited	Mr P Lagrange Mr P Gemini
Represented by	Mr M Somon	Trustees of the Alan Buckley Children's Settlement
	Mr J LDanos	Mr J R Goodman
	Mr PJ Strauss	Ms K Varcias
	Lady Vinelott	Mr and Mrs Swash- Hardie
	G & S Trustees and N Bentley	
Tribunal	P L Leighton LLB	
Date of Application :	6 th December 2012	
Date of Decision	15 th January 2013	

DECISION

Introduction

- 1 By an application dated 6th October 2012 but received on 2nd December 2012 the Applicant seeks dispensation from the Tribunal under section 20ZA of the Landlord and Tenant Act 1985 in respect of Lansdowne House Lansdowne Road London W11 3LP ("the property")
- 2 Directions were given on 17th December 2012 and the matter was set down for a paper determination in the week commencing 14th January 2013

- 3 No objection has been received from the Respondents and in most of their replies dated late December 2012 they have agreed with the proposal to dispense. Accordingly the Tribunal did not consider an oral hearing was necessary and proceeded to deal with the matter as a paper determination

The Facts

- 4 Lansdowne House is a purpose-built block containing 16 flats.
- 5 A fault developed in the lift control panel within the block in November 2012 causing the lift to break down continuously. The lift was examined by a maintenance company who reported that the control was faulty and removed it from the site for repair. The unit was tested and found to be faulty and non-responsive. The type of lift control panel is no longer manufactured and having regard to the age of the lift unit the manufacturers would not carry out repairs nor would any suppliers as there are no markings or wiring diagrams on site. A second lift maintenance company confirmed that the control panel was beyond repair and required replacement
- 6 The first stage statutory notice was sent by post on fourth of December 2012 following the lift been taken out of action on 20 eighth November.
- 7 An estimate was obtained from Jackson Lift Group and the likely cost of works of replacement exceeds £12,000. Accordingly the consultation regulations apply. As the cost to each leaseholder would exceed £250
- 8 The landlord through its agents MJS Block Management consulted with the leaseholders by a stage one notice under the Service Charge (Consultation Requirements) Regulations 2003 but considered that if they had to carry out the whole of the consultation process it would take four months to replace the lift panel and with elderly residents in the block this would be highly inconvenient and possibly dangerous.

The Tribunal's Decision.

- 9 In order to comply with Section 20 of the Act, the landlord must comply with the Service Charges Consultation Requirements) England Regulations 2003. The 2003 Regulations) .The relevant regulations which apply to building works by private contractors are Schedule 4 Part 2.

- 10 The Tribunal in deciding whether to grant dispensation has to consider how the landlord responded to the situation with which it was confronted in November and December 2012 in exercising its discretion
- 11 In particular the Tribunal has to consider whether or not the leaseholders in question would be prejudiced as a result of the actions which were taken and the fact that it was not possible or reasonable to provide formal consultation.
- 12 It appears to the Tribunal that no prejudice was occasioned to the leaseholder result of the non-compliance by the landlord with Schedule 2 Part 4 of the 2003 regulations the leaseholders have been notified of the arrangements and most have in effect agreed with the landlord's proposals or at least not objected to the proposals which are in the view of the Tribunal reasonable.
- 13 In the final analysis the Tribunal takes the view that the leaseholders not having been prejudiced, it would be wrong to refuse to grant dispensation in this case. The object of the regulations is not to penalise the landlord but to ensure good practice and to give protection to the interests of leaseholders. The Tribunal is satisfied that the purpose of the regulations was satisfied in this case In the circumstances dispensation under section 20ZA will be granted

Chairman Peter Leighton

Date 15th January 2013

