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Residential  
Property  
TRIBUNAL SERVICE

**LONDON RENT ASSESSMENT PANEL  
LEASEHOLD VALUATION TRIBUNAL**

**DECISION ON AN APPLICATION UNDER SECTION 20ZA LANDLORD  
AND TENANT ACT 1985**

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Ref : LON/00AE/LDC/2010/0058

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**Building:** South Block, Princes Court, 55-57 Shoot Up Hill, London  
NW2 3PX

**Applicant:** Pledream Properties Limited

**Respondents:** The leaseholders of the 32 flats in the Building

**Hearing date:** 25<sup>th</sup> June 2010

**In attendance:** Mr T Langton, Crabtree Property Management Limited  
(managing agents for the Applicant)  
The Respondents were not present and were not represented

**Tribunal:** Mr P Korn (Chairman)  
Mr T Johnson FRICS

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**BACKGROUND**

1. The Applicant is the Respondents' landlord at the Building.
2. The Applicant seeks dispensation from some of the consultation requirements imposed by Section 20 of the Landlord and Tenant Act 1985 (as amended) ("the 1985 Act") in respect of certain qualifying works. In particular it seeks dispensation from those consultation

requirements set out in Regulations 8(3) to 13(3) inclusive of Part 2 of Schedule 4 to the Service Charges (Consultation Requirements) (England) Regulations 2003.

3. The works relate to the replacement of the gearbox and (possibly) the motor of the lift in the Building. It is the only lift in the Building, and the Building is occupied by some elderly residents who, it is submitted, will find access to their flats difficult in the absence of a functioning lift.
4. Directions were issued on 16<sup>th</sup> June 2010. The Procedural Chairman was satisfied that the application related to urgent works and that the circumstances were exceptional, and accordingly the Procedural Chairman gave less than the normal 21 days notice of this hearing pursuant to the power to do so under Regulation 14(4) of the Leasehold Valuation Tribunals (Procedure) (England) Regulations 2003.
5. None of the Respondents attended the hearing and they were not represented.

#### **THE APPLICANT'S CASE**

6. Mr Langton for the Applicant explained that the Applicant had been advised by the lift engineers that the lift in the Building required major work to the gearbox and possibly an entire motor replacement. The Applicant sent a letter to all of the Respondents on 19<sup>th</sup> May 2010 describing the required works and then on 28<sup>th</sup> May 2010 it served notices of intention to carry out qualifying works under Section 20 of the 1985 Act. The Applicant instructed Anthony Judd and Associates to oversee the proposed works, and that firm has since produced a specification. After investigating the position, Anthony Judd and Associates advised the Applicant that the lift was sufficiently unsafe that it had to be switched off immediately, particularly as there was no emergency breaking mechanism.
7. Mr Langton explained that the Building was on four storeys and that many of the residents were elderly and some had arthritis. Therefore, in his view, it was reasonable to dispense with the remainder of the consultation requirements as this was an emergency situation and the delays that would be caused by going through a full consultation process would greatly prejudice those residents.
8. Mr Langton produced a copy of a letter from Mountview Estates P.L.C., the leaseholder of Flats 5, 22, 23, 24 and 32, in support of the application for dispensation stating that due to infirmities relating to their advanced years its tenants were finding the stairs very difficult to climb and asking for the issue to be resolved urgently.
9. In the bundle of documents there was evidence of a mildly negative representation having been made by one of the leaseholders, Mr Ashton. He expressed concern about the level of expenditure and asked that a

lift repair business in which he had a personal interest – Axis Elevators Limited – be invited to bid for the work. Mr Langton produced evidence to show that the Applicant had responded to this representation by inviting Axis Elevators Limited to tender for the work.

10. No other representations by or on behalf of the remainder of the Respondents had been brought to the Tribunal's attention.

## THE LAW

11. Under Section 20(1) of the 1985 Act, in relation to any qualifying works "*the relevant contributions of tenants are limited ... unless the consultation requirements have been either (a) complied with ... or (b) dispensed with ... by ... a leasehold valuation tribunal*".
12. Under Section 20ZA(1) of the 1985 Act "*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 ... the tribunal may make the determination if satisfied that it is reasonable to dispense with the requirements*".

## APPLICATION OF FACTS TO LAW

13. The Applicant accepts that the works concerned are qualifying works within the meaning of Section 20(1) and Section 20ZA(1) of the 1985 Act and that these provisions therefore apply to the works.
14. Section 20ZA of the 1985 Act does not specify in detail the basis on which the Tribunal is to exercise its discretion to dispense with the consultation requirements, although case law indicates that the need to carry out work urgently is regarded as the classic case justifying dispensation.
15. In this case, the Tribunal is satisfied that this is an emergency situation. The professional advice received by the Applicant indicates that it would be unsafe to continue to operate the lift until it has been repaired, and the evidence supplied indicates that there are elderly residents (some with arthritis) in the Building for whom it would cause significant hardship if the works had to be delayed until a full consultation process had been gone through.
16. There has been one negative representation from a leaseholder, but the Applicant has dealt with this appropriately by inviting the relevant contractor mentioned by that leaseholder to tender for the work. In the Tribunal's view, the Applicant has generally acted reasonably and professionally and has sought to comply with the Section 20 consultation requirements to the extent that it is reasonably able to do so rather than simply seeking a complete dispensation without making any effort to comply. The Applicant sent out an initial letter to leaseholders

followed by a formal notice of intention, and even since receiving professional advice that the lift cannot be operated until repaired it has continued to make an effort to comply with elements of the consultation requirements, for example by inviting three separate contractors to tender and obtaining a formal specification for the works.

17. In the circumstances, whilst the Tribunal would encourage the Applicant to continue to consult with the Respondents to the extent that it is reasonably practical to do so, the Tribunal is satisfied that it is reasonable to dispense with the remainder of the consultation requirements in respect of these works.

#### DETERMINATION

18. The Tribunal hereby determines pursuant to Section 20ZA(1) of the 1985 Act that the consultation requirements set out in Regulations 8(3) to 13(3) inclusive of Part 2 of Schedule 4 to the Service Charges (Consultation Requirements) (England) Regulations 2003 **may be dispensed with** in respect of the works which are the subject matter of this application.
19. No cost applications have been made.

Chairman:  P Korn

Dated: 29<sup>th</sup> June 2010