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**London Rent Assessment Panel**

**DECISION OF THE LEASEHOLD VALUATION TRIBUNAL ON  
REFERRALS UNDER SECTION 27A LANDLORD AND TENANT ACT 1985**

Case References: LON/00BK/LSC/2012/0025  
LON/00BK/LSC/2012/0026  
LON/00BK/LSC/2012/0028

Premises: 28,108 and 208 Holcroft Court, Clipstone Street,  
London W1W 5DG

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Applicant	:	City of Westminster Council
Represented by:	:	Mr Redpath-Stevens of Counsel
Respondents	:	(1) Mr Brian Weaver and Mrs Rhonda Weaver (Flat 28)
		(2) Miss Mary A C Louis (Flat 208)
		(3) Ms Lynne R Gardiner (Flat 108)
Represented by	:	Ms Lynne Gardiner In Person Mr Roger Allen
Date of Decision	:	2 April 2012
Leasehold Valuation Tribunal	:	Mr John Hewitt Chairman Mrs Alison Flynn MA MRICS

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**DECISION**

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**Decision**

1. The Decision of the Tribunal is that these three sets of court proceedings and the court files shall be returned to the court because

the Tribunal does not have jurisdiction to determine any of the claims made in the proceedings;

2. The reasons for our decision are set out below.
3. When the court receives the files back we urge that it gives careful consideration to staying each of the sets of proceedings pending an outstanding application for permission to appeal which is presently before the Upper Tribunal (Lands Chamber) (the Lands Tribunal). Reasons for this are set out fully below.

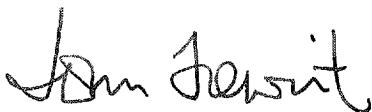
### **Background**

1. The Respondents are lessees of flat within the development known as Holcroft Court.
2. In 2011 the Respondents, together with some other 87 lessees were Applicants in an application to the Tribunal Case Ref:LON/00BK/LSC/2011/0258 concerning major works carried out at the development (the Lead Application). The Tribunal in the Lead Application decided, on 31 October 2011, that only 75% of the sums demanded by the Council were payable by the Applicant lessees. The Council has sought permission to appeal that decision and that application is outstanding.
3. Meanwhile, in June 2011 and in order to protect its perceived position with regard to the Limitation Act 1980, the Council commenced court proceedings against a number of lessees, including each of the three Respondents, claiming 100% of the sums demanded. The Council's solicitors sought a stay of those proceedings pending the determination of the Lead Application by the Tribunal. In most cases the court ordered the stays as requested.
4. For some reason which is not entirely clear to us the court did not stay the three subject sets of proceedings but instead made orders transferring the claims to this Tribunal. The orders appear to have been made on 4 January 2012.
5. It appears that Mr & Mrs Weaver and Ms Gardiner have paid their respective 75% contributions in line with the decision in the Lead Application. Ms Louis has not done so because she has an arrangement with the Council to defer payment pending the sale of the lease of her flat.
6. Directions were given on 1 February 2012. A hearing was directed to take place on 2 April 2012 to determine whether the three sets of proceedings referred to the Tribunal should be stayed or dismissed.
7. By letter dated 29 March 2012 solicitors for the Council made a late application that the hearing scheduled for 2 April 2012 be vacated and

the references stayed. That application was refused but the Applicant was given permission to renew if it considered it appropriate to do so.

### The Hearing

8. Mr Redpath-Stevens of counsel represented the Council. Mr Weaver wrote to the Tribunal to ask his attendance be excused due to work commitments. Ms Gardiner attended and was supported by Mr Roger Allen who had represented Ms Louis at the pre-trial review on 1 February 2012 and who was also the lead Applicant in the Lead Application and who is very familiar with the various legal processes.
9. Mr Redpath-Stevens submitted that the service charges claimed in each of the sets of court proceedings had been determined by the Tribunal in the Lead Application in its Decision dated 31 October 2011. That Decision stands unless and until it is overturned on appeal. An application for permission to appeal had been made and is outstanding.
10. Mr Redpath-Stevens drew attention to section 27A of the Landlord and Tenant Act 1985 and submitted the amount of the service charges claimed in the court proceedings had already been determined by a Leasehold Valuation Tribunal, in which the Respondents had taken a part, such that the present Tribunal did not have jurisdiction to reconsider it or re-determine the amount of the service charges payable.
11. Mr Redpath-Stevens invited the Tribunal to refer the three sets of proceedings back to the court.
12. Mr Allen and Ms Gardiner both made representations to us. They expressed dismay at the toing and froing and found the interaction of the court proceedings and the Tribunal perplexing and inconvenient. Both had taken time off work to attend the hearing. We have great sympathy with them.
13. We accept the submissions made to us by Mr Redpath-Stevens. We find that we have no jurisdiction to determine any matters raised in the court proceedings. We thus refer the files back to the court. We urge the court to stay the sets of court proceedings pending the outcome of the Council's application for permission to appeal the Decision made in the Lead Application. Once that application and any subsequent appeal concluded we suggest that steps can be taken to deal with any outstanding issues raised in the court proceedings.



John Hewitt  
Chairman  
2 April 2012