

**LONDON RENT ASSESSMENT PANEL****DECISION OF THE LEASEHOLD VALUATION TRIBUNAL  
ON AN APPLICATION UNDER SECTIONS 20ZA  
OF THE LANDLORD AND TENANT ACT 1985**

<b>Case Reference:</b>	LON/00AW/LDC/2013/0014
<b>Premises:</b>	Chelsea Lodge, 58 Tite Street, London SW3 4JD
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<b>Applicant:</b>	Constantine Land Ltd
<b>Representative:</b>	Douglas & Gordon
<b>Respondents:</b>	The lessees of the subject flats as set out in the schedule to the application
<b>Leasehold Valuation Tribunal:</b>	Mr NK Nicol Mr N Maloney FRICS
<b>Date of decision:</b>	2 <sup>nd</sup> May 2013

**Decision of the Tribunal**

The Tribunal grants to the Applicant dispensation from the statutory consultation requirements in accordance with section 20ZA of the Landlord and Tenant Act 1985 in respect of the calorifier replacement works which took place in January 2013.

**The Tribunal's reasons**

1. The Applicant seeks dispensation from the consultation requirements under s.20 of the Landlord and Tenant Act 1985 and the Service Charges (Consultation Requirements) (England) Regulations 2003 in accordance with s.20ZA of the same Act:-

(1) 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 or qualifying long term

agreement, the tribunal may make the determination if satisfied that it is reasonable to dispense with the requirements.

2. The subject property has a communal hot water system, part of which is a pair of calorifiers. One had previously been removed when the appointed mechanical services maintenance specialist, GBS (South East), had occasion to inspect the plant on 13<sup>th</sup> July 2012. A possible leak was noted. The remaining calorifier was inspected and GBS produced a report on 29<sup>th</sup> October 2012 recommending its replacement.
3. William Gusterson of WG Environmental Services Ltd also inspected. He felt that putting the works off to the following spring would carry too great a risk to the residents – if the remaining calorifier failed during the winter, residents could be without hot water for several days while a replacement was installed.
4. The managing agents, Douglas & Gordon, took the view that there would be insufficient time to consult the lessees in full compliance with the statutory requirements. They did send out an initial notice on 10<sup>th</sup> December 2012 which complied with the first stage of the requirements in the Regulations and sought to obtain three quotes. In the event, they obtained two quotes, one from GBS and the slightly cheaper, successful one from Quotehedge.
5. Following a check for possible asbestos, the work started in January 2013 and there is now a new pair of calorifiers serving the building.
6. On 31<sup>st</sup> January 2013 the application was issued in the Tribunal. Directions were issued on 7<sup>th</sup> February 2013. The lessees were notified of the application accordingly. There were no comments or objections to either the works or the application from any lessee.
7. The Tribunal came to consider the application on the papers, without a hearing, on 26<sup>th</sup> March 2013. Unfortunately, the matter had to be adjourned because the copy of the lease provided was incomplete. The Tribunal took the opportunity to ask questions of the Applicant which were answered by letter dated 12<sup>th</sup> April 2013 from Douglas & Gordon:-
  - a) Has a condition survey been previously carried out by a competent M&E specialist identifying the nature of the installation, the required maintenance regime and the condition of the plant? If so, when? (A copy of any report referred to must be provided to the Tribunal.)
 

A: No. A condition survey was not carried out prior to July 2012.
  - b) What service provisions and cyclical inspections have been undertaken? What recommendations, if any, have been made previously as to such provisions or inspections?
 

A: GBS had an obligation to inspect quarterly the equipment since the commencement of their contract (copy attached) in 13.02.12. They did not discover the equipment to be leaking until their inspection of 21.09.12

(engineer's report attached) and then took a full month before providing a cost for replacement. They have since been removed from contractual services at Chelsea Lodge.

8. The Tribunal is concerned that the problem with the calorifier could have been discovered earlier, at least in good time to carry out the full consultation process. The Applicant would appear to be aware of this from the nature of the answer given to question (b) above. It is to be hoped that the plant will be properly monitored in future.
9. Having said that, none of the lessees objected to the works and there appears to be no prejudice as it is likely the work would have been needed at approximately this cost in the near future in any event. Once the Applicant had reached the position whereby the lessees might have been at risk of being without hot water during the winter, they had no choice but to carry on in the way they did.
10. In the circumstances, the Tribunal finds that it is reasonable to dispense with the consultation requirements for the calorifier replacement works.

Chairman:



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NK Nicol

Date:

2<sup>nd</sup> May 2013