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Residential  
Property  
TRIBUNAL SERVICE

**LEASEHOLD VALUATION TRIBUNAL for the  
LONDON RENT ASSESSMENT PANEL**

**APPLICATION UNDER S 20ZA OF THE LANDLORD AND TENANT ACT**

**1985 (as amended)**

**DETERMINATION BY THE LEASEHOLD VALUATION TRIBUNAL**

**REF: LON/00AW/LDC/2010/0040**

**Address:** 53 Cadogan Square, London, SW1X OHY

**Applicant:** Executors of Sir Frances Sandilands

**Respondent:** The lessees of 53 Cadogan Square, SW1X OHY

**Tribunal:** Mrs S O'Sullivan  
Mrs A Hamilton FRICS LLB

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1. The Applicant, who are the executors of Sir Frances Sandilands, the landlord of 53 Cadogan Square London SW1X OHY ("the Property"), has applied to the Tribunal by an application dated 20 April 2010 for dispensation of all or any of the consultation requirements contained in S20 of the Landlord and Tenant Act 1985, as amended ("the Act"). The application was made by Scotts, Chartered Surveyors.
  2. The property is described in the application as "conversion flats within an early Victorian dwelling".

3. The application is made to dispense with all or any of the consultation requirements in respect of the renewal of a defunct domestic heating and hot water boiler in the basement flat, which is occupied by a resident porter.
4. Neither the Applicant nor any of the Respondents requested an oral hearing, and therefore in accordance with Directions issued by the Tribunal on 22 April 2010, this matter was dealt with by way of a paper hearing, which was held on 3 June 2010. Written representations were received on behalf of the Applicant. No written representations were received from any of Respondents.

### **The Applicant's case**

4. The Applicant's grounds for seeking dispensation as set out in the application were *"the domestic boiler which provides heating and hot water has failed due to age and wear on its primary components and is beyond reasonable repair. The landlords seek consent for dispensation on the grounds it would be unreasonable for the caretaker to be deprived of such facilities for the duration of a standard section 20 notice period...Following an emergency call from the resident caretaker a boiler engineer attended and on arrival found that the boiler itself was leaking water profusely and was considered to be in a totally unsafe condition and beyond repair"*

5. In respect of consultation which had been carried out, it was said *"no consultation to date save for the service on all respondents of a first stage notice under section 20"*

### **The Tribunal's determination**

8. The Tribunal has had confirmation of the condition of the boiler from Scotts Chartered Surveyors. The application was lodged at the Tribunal very shortly after the condition of the boiler was known. The Tribunal has been provided with quotations from two contractors for the replacement of the boiler from Mayfair Heating Services dated 2 April 2010 and Mc Larnon & Sons Ltd dated 9 April 2010 in the sums of £4,350 plus Vat and £3,260 plus Vat respectively. The Tribunal is satisfied that both quotations agree on the extent of the proposed works and are similar in price.


9. Scotts confirmed by letter to the Tribunal dated 4 May 2010 that a copy of the application and the Tribunal's Directions had been distributed to each lessee. The Tribunal has received no representations from the Respondents save for a copy of a letter sent on behalf of the lessee of Flat 6 which confirmed that that lessee had no objection to dispensation of the consultation requirements.

10. The Tribunal must have a cogent reason for dispensing with the consultation requirements, the purpose of which is that tenants who may ultimately foot the bill are fully aware of what works are being proposed, the cost thereof and have the opportunity to nominate contractors. Save for a response from the lessee of Flat 6, none of the other lessees have indicated that they oppose the application.

11. In the circumstances of this particular case, it is clear from the documentation, that the boiler is obsolete. A new boiler is required. Bearing in mind that no hot water or heating is available for the occupant of the caretaker's flat, it is felt that to comply with full consultation requirements as required by the Act would mean that the porter would be without hot water and heating if required for some time.

12. Accordingly the Tribunal determines that those parts of the consultation process which have not been complied with may be dispensed with.

13. It should be noted that in making its determination, and as stated in Directions, this application does not concern the issue of whether any service charge costs are reasonable or payable by the lessees. The Tribunal's determination is limited to this application for dispensation of consultation requirements under S20ZA of the Act.

CHAIRMAN.....

Dated ..... 3 June 2010 .....