

**RESIDENTIAL PROPERTY TRIBUNAL SERVICE**  
**SOUTHERN RENT ASSESSMENT PANEL**  
**LEASEHOLD VALUATION TRIBUNAL**

**S.27A Landlord & Tenant Act 1985 as amended**

**DECISION SEEKING PERMISSION**  
**TO APPEAL**

**Case Nos: CHI/29UE/LIS/2009/0108 , CHI/29UE/LSC/2009/0129**

**Re: Kingsdown Park, Upper Street, Deal, Kent, CT14 8AX**

Between:

James Clugstone (41)  
Mr & Mrs M. Lowers (51)  
Mrs Dreda Christine Ilyas (53)  
Mr & Mrs B. Stevens (59)  
Mr C. Austin-Haynes (75)  
Mrs Elizabeth Cooke (2)  
Mr & Mrs F. Beaney (8)  
Peter Schaffer & Shelley Schaffer (14)  
Mrs Susan Vale & Mr Peter Vale (16)  
Joseph Cornwell (17)  
David Robinson (18/84)  
Noreen Maconochie (19)  
Ken Pepper (22)  
Mark Ford and Barbara Ford (23)  
Peter Anger (24)  
Dr H.S. Crawley (26)  
David Aspinall & Ms A Davies (32)  
David Leslie Milan (37)

Mr & Mrs M.J. Cozens (39)

Chris Whiting (42)

Janet B.E. Lowers (51)

Mr. and Mrs. Cox (52)

Edward Sharrod and Jennifer Sharrod (54)

Phillip F. Southby (57)

S.J. Cox and G.J. Cox (61)

Mr R.W. Staples (63)

Ian Berridge and Elizabeth Berridge (64)

P.J. Searle (69)

Nicola Braden (70)

Michael Blackley and Elizabeth Blackley (77)

Mr & Mrs Martin (78)

Dawn Bennett (80)

Rex Martin (85)

Martin L. Gee (86)

Mr K. Laing and Mrs M. Laing (87)

Mr & Mrs Lane (88)

Mrs Janice Kirby (91)

Rita Spall (93)

Peter Spall (94)

Mr & Mrs R. Lowe (100)

Miss Mary Phillips (110)

Rita Holme (111)

Christopher Hood (116)

Jason Gardiner (117)

Mr & Mrs J.N. Hollyer (118)

Mr T. Kingham (120)

David John Caygill (125)

Mr E.F. Dunn (127)

Mr J. Salt (138)

Ryan Thomas (143)

("The Applicants")



**Date of Decision: 19<sup>th</sup> March 2010**

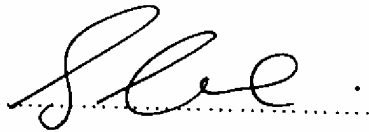
**Date of Permission to Appeal: 19<sup>th</sup> April 2010**

**Date of Decision: 19<sup>th</sup> May 2010**

1. Further to the receipt of Permission to Appeal (hereinafter referred to as the "Grounds"), the decision of the Tribunal dated 19<sup>th</sup> March 2010 the Tribunal makes the following observations.
  
2. In respect of Ground One, the Tribunal had the benefit of extensive oral submission by counsel for the Applicant's and solicitors for the Respondent. The Tribunal was perfectly entitled to find on the basis of the evidence presented to it and applying the civil standard of a balance of probabilities, that it was more probable than not that the demands had not in fact been sent until November 2009. The explicit rejection of any argument based on a substantial compliance with the requirements of the Act as advanced by the Respondent reinforces the view taken by the Tribunal that demands in the proper form were in fact not sent until November 2009. The Grounds seek to argue no more than a disagreement with the view the Tribunal took of the evidence and submissions made before it and they disclose no error of law as the Tribunal was perfectly entitled to consider the evidence before them in the manner that they did.
  
3. In respect of Ground Two, the Respondent seeks to argue that the Tribunal was persuaded wrongly to take account of the payment arrangements. The Tribunal is perfectly entitled to take a view of the material before it and the arguments raised by both sides. The Tribunal concluded that an estoppel by convention had arisen on the basis of the information before it and it was perfectly entitled to reach this conclusion.

4. In respect of Ground Three, the Tribunal notes its observation in Paragraph 55 of the Decision that the play area is of a wholly different character from what was there before and therefore the sum of £3374.46 is not recoverable because it cannot relate to an existing play area and is inextricably linked to the failed attempt to obtain planning permission.
5. Ground Four in respect of costs is rejected because the Joined Applicants have substantially succeeded in their case and hence the award was proportionate and proper in the circumstances.
6. For the Reasons above Permission to Appeal is refused.

Chairman.....



Date.....

17/5/10