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HM COURTS & TRIBUNALS SERVICE

**LEASEHOLD VALUATION TRIBUNAL**

**Property** : **Valley Gardens Court, 7 – 11 Valley Drive, Harrogate**

**Applicant** : **VALLEY GARDENS COURT LIMITED**

**Respondent** : **THE LEASEHOLDERS OF FLATS 1 – 12, 14 and 15**

**Case number** : **MAN/ 36UD/LDC/2012/0004**

**Date of Application** : **19 March 2012**

**Type of Application** : **Landlord and Tenant Act 1985, section 20ZA**  
**Application to dispense with consultation requirements**

**The Tribunal** : **A M Davies LLB (chair)**  
**J Jacobs, MRICS**

**Date of decision** : **11 May 2012**

**DECISION**

The requirement for the Applicant to consult pursuant to section 20 of the Landlord and Tenant Act 1985 is dispensed with under section 20ZA of the same Act in relation to the removal of asbestos from a communal service riser at Valley Gardens Court, 7 – 11 Valley Drive, Harrogate.

**REASONS**

1. Section 20ZA of the Landlord and Tenant Act 1985 as amended (the Act) provides that  
*“Where an application is made to a leasehold valuation tribunal for a determination to dispense with all or any of the [section 20] 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.”*  
The Tribunal is satisfied that it is reasonable to dispense with the consultation requirements for the reasons given below.
2. 7 – 11 Valley Gardens Court was built as a hotel and was divided some years ago into 14 flats situated on the ground floor and over three upper floors with mezzanine

levels. A lift shaft rises from the entrance lobby, and adjacent is a vertical space or riser taking water and electricity to all floors of the building. The management company Applicant identified a need for replacing the electrics in the common parts of the building, ie front and rear lobbies, basement, stairs and corridors and began a consultation process as required by section 20 of the Landlord and Tenant Act 1985 ("the Act"). On investigation by potential contractors it became clear that the service riser in the building, as well as parts of the basement, contain harmful types and levels of asbestos. This was confirmed in a report carried out by Leeds City Council following their inspection on 14 and 17 October 2011.

3. The Applicant has obtained three estimates for the removal of asbestos from the riser. There are plans to carry out removal of asbestos from the former boiler room in the basement at a later stage – meanwhile that area is being left undisturbed. A meeting has been held with residents, and no objections to this application have been received either by the Applicant, or, in the course of these proceedings, by the Tribunal Office.
4. The Tribunal inspected the common parts of the property on 11 May 2012 in the presence of Mr Dias of the Applicant's managing agents.
5. The Tribunal is satisfied that
  - (i) the renewal of the electrical system in the common parts of the property needs to be undertaken and a section 20 consultation for such work has taken place
  - (ii) the communal service riser through which the electrics are taken to each floor of the building, pipe-work through the common parts of the building, and parts of the basement area are contaminated by the presence of asbestos of which some (including the asbestos in the riser) is of a harmful type and requires immediate removal by specialist contractors
  - (iii) work on the electrical system cannot proceed until the riser is clear of asbestos
  - (iv) the work has to be undertaken urgently; it is neither necessary nor appropriate to allow time for the formal consultation procedure
  - (v) there is no evidence that interests of leaseholders will be prejudiced by lack of formal consultation, or that money will be saved if section 20 consultation takes place

and that dispensation from the consultation requirements should be granted.



A M Davies, Chairman