

10611



**FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)**

Case Reference : **MAN/30UH/LDC/2015/0005**

Property : **Lakeland House, Marine Road East,
Morecambe, Lancashire LA4 6AY**

Applicant : **Lakeland House (Morecambe)
Maintenance Company Ltd**

Respondents : **Various (see attached list)**

Type of Application : **Landlord & Tenant Act 1985 – Section 20ZA**

Tribunal Member : **Judge J Holbrook**

Date of Directions : **20 February 2015**

DIRECTIONS

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PRELIMINARY

- (1) This application is made by Lakeland House, Marine Road East, Morecambe, Lancashire LA4 6AY for dispensation of the consultation requirements imposed by Section 20 of the Landlord and Tenant Act 1985 ('the Act') with regard to works for the immediate removal of Asbestolux panels from switch room and meter cupboards (40 cupboards) with environmental cleaning of those areas. The Applicant considers the works should be carried out urgently.
- (2) The only issue for the Tribunal to consider is whether or not it is reasonable to dispense with the consultation requirements. **The application does not concern the issue of whether any service charge costs resulting from any such works are reasonable or indeed payable and it will be open to lessees to challenge any such costs charged by the Applicant.**
- (3) It is considered that this matter is one that can be resolved by way of submission of written evidence leading to an early determination. If any party wish to make oral representations before the Tribunal please inform the Tribunal's Office in Manchester by letter within 14 days from the date of these Directions

DIRECTIONS

1. The Applicant shall within 7 days of the date of these Directions, send three copies to the Tribunal, with a copy to each Respondent, a bundle of documents, consisting of;
 - a. These Directions
 - b. The application form
 - c. A statement of case explaining why the application has been made to the Tribunal
 - d. Any correspondence sent to the leaseholders in relation to the works
 - e. Any documents confirming the urgency of the works.
 - f. Any quotes or estimates for the proposed works and relevant reports.
 - g. Copies of any other documents the Applicant seeks to rely on in evidence.
2. Any Respondent may, within 14 days of receipt of (2) above, send to the Applicant's Representative and three copies to the Tribunal, any statement they wish to make in response to the Applicant's bundle of documents. This submission should include any documents upon which they seek to rely in evidence.
3. The Applicant must confirm to the Tribunal that it has served each respondent as directed in 1 above and may, within 7 days of the date of the receipt of (2) submit any comments in reply to the Respondent's reply; supplying three copies to the Tribunal and a copy direct to the Respondent.

4. The hearing of the application, if requested, will take place at a venue to be fixed on a date to be notified. The hearing fee of £190.00 must be paid by the Applicant no later than 14 days before the date of the hearing.
5. Submissions in respect of Directions 1, 2 and 3 must be indexed and numbered page by page. These submissions must be received by post or delivered in person and can **not** be accepted by fax or email. The submissions must include copies of every document upon which the parties seek to rely in evidence.
6. No documents or letters are to be sent to the Tribunal unless sent to the other party to these proceedings and this must be clearly marked on each document or letter.

NON COMPLIANCE WITH THE TRIBUNAL'S DIRECTIONS MAY RESULT IN PREJUDICE TO A PARTY'S CASE. IN THE CASE OF THE APPLICANT NON-COMPLIANCE COULD RESULT IN DISMISSAL OF THE APPLICATION IN ACCORDANCE WITH THE TRIBUNAL PROCEDURE (FIRST-TIER) (PROPERTY CHAMBER) RULES 2013.

List of Respondents

<u>Name</u>	<u>Interest</u>	<u>Name</u>	<u>Interest</u>
Mr & Mrs Craggill	Flat 1	Mrs Pollard	Flat 41
Mrs Exton	Flat 2	Mr Rampling	Flat 43
Mr & Mrs Peace	Flat 3	Mrs Brown	Flat 45
Mr Procter	Flat 4	Mr & Mrs Sharples	Flat 46
Mrs Crooks	Flat 5	Rev & Mrs Clayton	Flat 47
Mr Towers	Flat 6	Mrs Day	Flat 48
Mrs Lees-Whittaker	Flat 7	Miss Pollitt	Flat 49
Mr Winder	Flat 8	Mrs Sherwood	Flat 50
Mrs Liu	Flat 9	Mr Blacktop	Flat 51
Miss Riley	Flat 10	Mrs Holden	Flat 52
Mr & Mrs Curran	Flat 11	Mrs Shields	Flat 53
Ms Ford	Flat 12	Mr & Mrs Coates	Flat 54
Mr Townsend	Flat 14	Mrs Altham	Flat 55
Mrs Smith	Flat 15	Mr & Mrs Finney	Flat 56
Mrs Preston	Flat 16	Mrs Garnett	Flat 57
Mr Lilley	Flat 17	Mr Clark	Flat 58
Mr Heys	Flat 18	Mr Stanwyx	Flat 59
Mr & Mrs Beaumont	Flat 19	Mr Hossell	Flat 60
Mrs Jump	Flat 20	Mr & Mrs Bracewell	Flat 61
Mr & Mrs Westworth	Flat 21	Mrs Davis	Flat 62
Miss Hollis	Flat 22	Mr & Mrs Finney	Flat 63
Mr & Mrs Reddin	Flats 23 & 24	Mr & Mrs Woolrich	Flat 64
Mr & Mrs Williams	Flat 25	Mr Welsby	Flat 65
Mr Langstreth	Flat 26	Mrs Howard	Flat 66
Mrs Walford	Flat 27	Mr Buckley	Flat 67
Mr Webster	Flat 28	Mr Boyne	Flat 68
Mr & Mrs Naylor	Flat 29	Mr & Mrs Fisher	Flat 69
Miss Makin	Flat 30	Mrs Veal	Flat 70
Mr Kondras	Flat 31	Mr Eckersley	Flat 71
Rev Curruthers	Flat 32	Mr Cooke	Flat 72
Mr & Mrs Hatfield	Flat 33	Mrs Goonan	Flat 73
Mrs Payne	Flat 34	Mr & Mrs Pickles	Flat 74
Mrs How	Flat 35	Mrs Graves	Flat 75
Mr Hooper	Flat 36 & 38	Mr & Mrs Povey	Flat 76
Mrs Hurst	Flat 37	Mr Jones	Flat 77
Mr & Mrs England	Flats 39, 42, 44 & 79	Mrs Penegar	Flat 78
Mrs Child	Flat 40		

First-tier Tribunal, Property Chamber Residential Property

GUIDANCE ON APPEAL

- 1) An appeal to the Upper Tribunal against a decision of a First-tier Tribunal (Property Chamber) can be pursued only if **permission to appeal** has been given. Permission must initially be sought from the First-tier Tribunal. If you are refused permission to appeal by the First-tier Tribunal then you may go on to ask for permission from the Upper Tribunal (Lands Chamber).
- 2) An application to the First-Tier Tribunal for permission to appeal must be made **so that it is received by the Tribunal within 28 days after the date on which the Tribunal sends its reasons for the decision.**
- 3) If made after the 28 days, the application for permission may include a request for an extension of time with the reason why it was not made within time. Unless the application is made in time or within granted extended time, the tribunal must reject the application and refuse permission.
- 4) You must apply for the permission **in writing**, and you must:
 - identify the case by giving the address of the property concerned and the Tribunal's reference number;
 - give the name and address of the applicant and any representative;
 - give the name and address of every respondent and any representative
 - identify the decision or the part of the decision that you want to appeal;
 - state the grounds of appeal and state the result that you are seeking;
 - sign and date the application
 - send a copy of the application to the other party/parties and in the application record that this has been done

The tribunal may give permission on limited grounds.

- 5) When the tribunal receives the application for permission, the tribunal will first consider whether to review the decision. In doing so, it will take into account the overriding objective of dealing with cases fairly and justly; but it cannot review the decision unless it is satisfied that a ground of appeal is likely to be successful.
- 6) On a review the tribunal can
 - correct accidental errors in the decision or in a record of the decision;
 - amend the reasons given for the decision;
 - set aside and re-decide the decision or refer the matter to the Upper Tribunal;
 - decide to take no action in relation to the decision.

If it decides not to review the decision or, upon review, to take no action, the tribunal will then decide whether to give permission to appeal.

- 7) The Tribunal will give the parties written notification of its decision. **If permission to appeal to the Upper Tribunal (Lands Chamber) is granted**, the applicant's notice of intention to appeal must be sent to the registrar of the Upper Tribunal (Lands Chamber) so that it is received by the registrar within **28 days** of the date on which notice of the grant of permission was sent to the parties.
- 8) **If the application to the Property Chamber for permission to appeal is refused**, an application for permission to appeal may be made to the Upper Tribunal. An application to the Upper Tribunal (Lands Chamber) for permission must be made within **14 days** of the date on which you were sent the refusal of permission by the First-tier Tribunal.
- 9) The tribunal can **suspend the effect of its own decision**. If you want to apply for a stay of the implementation of the whole or part of a decision pending the outcome of an appeal, you must make the application for the stay at the same time as applying for permission to appeal and must include reasons for the stay. You must give notice of the application to stay to the other parties.

These notes are for guidance only. Full details of the relevant procedural provisions are mainly in:

- the Tribunals, Courts and Enforcement Act 2007;
 - the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013;
 - The Tribunal Procedure (Upper Tribunal)(Lands Chamber) Rules 2010.
- You can get these from the Property Chamber or Lands Chamber web pages or from the Government's official website for legislation or you can buy them from HMSO.

The Upper Tribunal (Lands Chamber) may be contacted at:

*5th Floor, Rolls Building, 7 Rolls Buildings
Fetter Lane, London WC4A 1NL*

*Tel: 0207 612 9710
Goldfax: 0870 761 7751*

Email: lands@hmcts.gsi.gov.uk

The Upper Tribunal (Lands Chamber) form (T601 or T602), Explanatory leaflet and information regarding fees can be found on www.justice.gov.uk/tribunals/lands.



Mr Blacktop
Flat 51
Lakeland House
Marine Road East
Morecambe
LA4 6AY

Your ref: Flat 51
Our ref: MAN/30UH/LDC/2015/0005

Date: 20 February 2015

Dear Sir

RE: Landlord & Tenant Act 1985 - Section 20ZA

PREMISES: Lakeland House, Marine Road East, Morecambe LA4 6AY 0QG

The Tribunal has received an application in respect of the above address and you are named in the application as a respondent.

A copy of the application is enclosed for your information. Please see the section "Grounds for Application" on page 10 of the application form for further information on the case.

I enclose a copy of the Tribunal's Directions that sets out the procedures and timetable to be adopted by the parties before the case is determined together with a copy of our Service Standards. A copy of the Tribunal's Guidance Notes on Procedure can be obtained from the Ministry of Justice website (<http://www.justice.gov.uk/tribunals/residential-property#guidance>) or this office (0161 237 9491).

It is important that you comply with these Directions and stay within the time limits. Please pay attention to the final paragraph regarding non-compliance. It is also essential that any further correspondence sent directly to the Tribunal is copied to all other parties.

The Tribunal proposes to deal with this application on paper only without the need for a hearing. If any of the parties request a hearing, one will be arranged and you will be notified of the date.

Yours faithfully

Miss Deborah Linney
Case Officer

MAN/30UH/LDC/2015/0005

Application for the dispensation of all or any of the consultation requirements provided for by section 20 of the Landlord and Tenant Act 1985

HM COURTS &

19 FEB 2015

Section 20ZA of the Landlord and Tenant Act 1985

It is important that you read the notes below carefully before you complete this form.

TRIBUNALS SERVICE
CITE
FACD
DUR

This is the correct form to use if you want to ask the Tribunal to dispense with all or any of the consultation requirements set out in section 20 of the Landlord and Tenant Act 1985 and in the Service Charges (Consultation Requirements)(England) Regulations 2003.

Please send your completed application form together with the documents listed in section 13 below and any application fee payable, to the appropriate regional Tribunal office. (See the Annex to this form for regional office details). Please note that fee changes were made on 1 July 2013 in respect of all applications made on or after that date. The new fees are set out in this form. Please do not send any other documents. If and when further evidence is needed you will be asked to send it in separately.

If you have any questions about how to fill in this form, the fee payable, or the procedures the Tribunal will use, please call the regional office.

1. DETAILS OF APPLICANT(S) [redacted] applicants please continue on a separate sheet

Name:

Address (including postcode):

Address for correspondence (if different from above):

Telephone:
Day: Evening: Mobile:

Email address: Fax:

Capacity (e.g. landlord/management company):

Representative name and address, and other contact details - Where details of a representative have been given, all correspondence and communications will be with them until the Tribunal is notified that they are no longer acting.

4

2. ADDRESS (including postcode) of SUBJECT PROPERTY (if not already given)

As in 1.

3. BRIEF DESCRIPTION OF BUILDING (e.g. 2 bedroom flat in purpose built block of 12 flats)

78 one-bedroomed flats in a purpose built block

4. DETAILS OF RESPONDENT (S) (if there are multiple respondents, please continue on a separate sheet)

Name: List enclosed

Address (including postcode):

Address for correspondence (if different from above):

Telephone:

Day:

Evening:

Mobile:

Email address:

Fax:

Capacity (e.g. tenant): Leaseholders

Note: If this is an application by a landlord, then usually all tenants liable to pay a service charge for the costs in question should be joined as respondents. If tenants are not joined in this way, the landlord should provide the Tribunal with a list of the names and addresses of service charge payers. If this is not possible or is impractical, then a written explanation must be provided with this application.

If you are the landlord/management company making the application please omit, if known, the telephone/fax numbers and email address of the respondent(s) when completing Box 4 and include them on a separate sheet. This is because the application form may be copied by the tribunal to other appropriate persons (e.g. other service charge paying leaseholders in the building or development).

5. DETAILS OF LANDLORD (if not already given)

Name:

Address (including postcode):

Telephone:
Day: Evening: Mobile:

Email address: Fax:

6. DETAILS OF AN [REDACTED] (if known)

Name of Secretary:

Address (including postcode):

Telephone:
Day: Evening: Mobile:

Email address: Fax:

7. DISPENSATION SOUGHT

Applicants may seek a dispensation of all or any of the consultation requirements in respect of either qualifying works or long-term agreements.

Does the application concern qualifying works? Yes No

If Yes, have the works started/been carried out? Yes No

Does the application concern a qualifying long-term agreement? Yes No

If Yes, has the agreement already been entered into? Yes No

For each set of qualifying works and/or qualifying long-term agreements please complete one of the sheets of paper entitled '**GROUNDS FOR SEEKING DISPENSATION**'

9 OTHER APPLICATIONS

Do you know of any other cases involving either: (a) related or similar issues about the management of this property; or (b) the same landlord or tenant or property as in this application?

Yes No

If Yes, please give details

9 CAN WE DEAL WITH YOUR APPLICATION ON A PAPER DETERMINATION?

If the Tribunal thinks it is appropriate, and all the parties and others notified of their right to attend a hearing consent, it is possible for your application to be dealt with entirely on the basis of written representations and documents and without the need for parties to attend and make oral representations. ('A paper determination').

Please let us know if you would be content with a paper determination if the Tribunal thinks it appropriate.

Yes No

Note: Even if you have asked for a paper determination the Tribunal may decide that a hearing is necessary. Please complete the remainder of this form on the assumption that a hearing will be held. Where there is to be a hearing, a fee of £190 will become payable when you receive notice of the hearing date.

10 TRACK PREFERENCES

We need to decide whether to deal with the case on the Fast Track or the Standard Track (see Guidance Note for an explanation of what a track is). Please let us know which track you think appropriate for this case.

Fast Track
 Standard Track

Is there any special reason for urgency in this case?

Yes No

If Yes, please explain how urgent it is and why:

Health & Safety Executive order P1/JW/05022015/GP7

Immediate removal of Asbestolux panels from switch room and meter cupboards (40 cupboards) with environmental cleaning of those areas.

Note

The Tribunal will normally deal with a case in one of three ways: on paper (see section 10 above) or 'fast track' or 'standard track'. The fast track is designed for cases that need a hearing but are very simple and will not generate a great deal of paperwork or argument. A fast track case will usually be heard within 10 weeks of your application. You should indicate here if you think your case is very simple and can be easily dealt with. The standard track is designed for more complicated cases where there may be numerous issues to be decided or where for example, a lot of documentation is involved. A standard track case may involve the parties being invited to a Case Management Conference which is a meeting at which the steps that need to be taken to bring the case to a final hearing can be discussed.

11 AVAILABILITY

If there are any dates or days we must avoid during the next three months (either for your convenience or the convenience of any expert you may wish to call) please list them here.

Please list the dates on which you will NOT be available:

No unavailable dates

12 VENUE REQUIREMENTS

Please provide details of any special requirements you or anyone who will be coming with you may have (e.g. the use of a wheelchair and/or the presence of a translator):

No special requirements

Applications handled by the London regional office are usually heard in Alfred Place, which is fully wheelchair accessible. Elsewhere, hearings are held in local venues which are not all so accessible and the case officers will find it useful to know if you or anyone you want to come to the hearing with you has any special requirements of this kind.

13. CHECKLIST

Please check that you have completed this form fully. The Tribunal will not process your application until this has been done and it has the following documents together with the application fee (if applicable).

A copy of the lease(s).

A statement that service charge payers have been named as respondents or a list of names and addresses of service charge payers

A crossed cheque or postal order for the application fee (if applicable) is enclosed.

Amount of fee enclosed Please put your name and address on the back of any cheque you send.

DO NOT send cash under any circumstances. Cash payment will not be accepted and any application accompanied by cash will be returned to the applicant.

Note

The amount of the application fee will depend on the number of dwellings to which the application relates. To find out how much you will need to pay you should consult the following table (to check when we have SI):

Number of dwellings to which application relates	Application Fee
5 or fewer dwellings	£190
Between 6 and 10 dwellings	£315
More than 10 dwellings	£440

Fees should be paid by a crossed cheque made payable to, or a postal order drawn in favour of HM Courts and Tribunals Service.

Fee Remission

If you believe you may qualify for a fee remission when applying to the First-tier Tribunal (Property Chamber) Residential Property, the combined booklet and application form 'EX160A Court and Tribunal Fees - Do I have to pay them?' gives all the information you need. You can get a copy online at hmctsformfinder.justice.gov.uk. The form must be included with your application.

If you are making several applications at the same time, even if you are using different application forms or the applications relate to different parts of the Tribunal's jurisdiction, you do not have to pay a separate fee for each application. The overall fee will be the biggest of the fees payable for each application on its own.

14. STATEMENT OF TRUTH

I believe that the facts stated in this application are true.

Signed: V. Brown

Dated: 18th February 2015

Please use the space below to provide information mentioned in section 7 of this form.

You will be given an opportunity later to give further details of your case and to supply the Tribunal with any documents that support it. At this stage you should give a clear outline of your case so that the Tribunal understands what your application is about. Please continue on a separate sheet if necessary.

1. Describe the qualifying works or qualifying long-term agreement concerned, stating when the works were carried out or planned to be carried out or in the case of a long-term agreement, the date that agreement was entered into or the proposed date it is to be entered into.

Work ordered by Health & Safety Executive

Immediate removal of Asbestolux panels from switch room and meter cupboards (40 cupboards) with environmental cleaning of those areas

Work is scheduled to start on 20th February 2015.

2. Describe the consultation that has been carried out or is proposed to be carried out.

We have made all leaseholders aware of the order and the cost involved, and that 2 similar quotations were received.

They have also been informed that we are seeking dispensation of consultancy requirements provided for by section 20 of the Landlord and Tenant Act 1985

3. Explain why you seek dispensation of all or any of the consultation requirements.

To comply with Health & Safety order P1/JW/05022015/GP7

ANNEX: Addresses of Tribunal Regional Offices

NORTHERN REGION

1st Floor, Piccadilly Exchange, Piccadilly Plaza
Manchester M1 4AH

Telephone: 01612 379491
Fax: 01264 785 128

This office covers the following Metropolitan districts: Barnsley, Bolton, Bradford, Bury, Calderdale, Doncaster, Gateshead, Kirklees, Knowsley, Leeds, Liverpool, Manchester, Newcastle-upon-Tyne, Oldham, Rochdale, Rotherham, St. Helens, Salford, Sefton, Sheffield, Stockport, Sunderland, Tameside, Trafford, Tyneside (North & South), Wakefield, Wigan and Wirral.

It also covers the following unitary authorities: Hartlepool, Middlesbrough, Redcar and Cleveland, Darlington, Halton, Blackburn with Darwen, Blackpool, Kingston-upon-Hull, East Riding of Yorkshire, Northeast Lincolnshire, North Lincolnshire, Stockton-on-Tees, Warrington and York.

It also covers the following Counties: Cumbria, Durham, East Cheshire, Lancashire, Lincolnshire, Northumberland, North Yorkshire and West Cheshire.

MIDLAND REGION

3rd Floor, Temple Court, 35 Bull Street,
Birmingham B4 6AF

Telephone: 0121 681 3084
Fax: 01264 785 122

This office covers the following Metropolitan districts: Birmingham, Coventry, Dudley, Sandwell, Solihull, Walsall and Wolverhampton.

It also covers the following unitary authorities: Derby, Leicester, Rutland, Nottingham, Herefordshire, Telford and Wrekin and Stoke-on-Trent.

It also covers the following Counties: Derbyshire, Leicestershire, Nottinghamshire, Shropshire, Staffordshire, Warwickshire and Worcestershire.

EASTERN REGION

Unit 4C, Quern House, Mill Court
Great Shelford, Cambridge CB22 5LD

Telephone: 01223 841 524
Fax: 01264 785 129

This office covers the following unitary authorities: Bracknell Forest, West Berkshire, Reading, Slough, Windsor and Maidenhead, Wokingham, Luton, Peterborough, Milton Keynes, Southend-on-Sea and Thurrock.

It also covers the following Counties: Bedfordshire, Berkshire, Buckinghamshire, Cambridgeshire, Essex, Hertfordshire, Norfolk, Northamptonshire, Oxfordshire and Suffolk.

SOUTHERN REGION

Magistrates Court and Tribunal Centre
Ground Floor
6 Market Avenue, Chichester,
West Sussex PO19 1YE

Telephone: 01243 779 394
Fax: 0870 7395 900

This office covers the following unitary authorities: Bath and Northeast Somerset, Bristol, North Somerset, South Gloucestershire, Bournemouth, Plymouth, Torbay, Poole, Swindon, Medway, Brighton and Hove, Portsmouth, Southampton and the Isle of Wight.

It also covers the following Counties: Cornwall and the Isles of Scilly, Devon, Dorset, East Sussex, Gloucestershire, Hampshire, Kent, Somerset, Surrey, West Sussex and Wiltshire.

LONDON REGION

10 Alfred Place,
London WC1E 7LR

Telephone: 020 7446 7700
Fax: 01264 785 060

This office covers all the London boroughs.