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

Case Reference : **LON/00AG/LDC/2018/0058**

Property : **10 Belsize Park Gardens London
NW3 4LD**

Applicant : **10 Belsize Park Gardens
Management Company Limited**

Representative : **Streathers Solicitors LLP**

Respondents : **Professor and Mrs Klug: Flat A
J and O Topor: Flats B and C
J Laderman: Flat D
M O J Jacobs and A D Jacobs: Flat E**

Representative : **None**

Type of Application : **For dispensation of the
consultation requirements under
section 20ZA**

Tribunal Judge : **Judge Pittaway**

Date of Decision : **8 May 2018**

DECISION

The Tribunal's decision

1. The Tribunal determines that an order under section 20ZA of the 1985 Act dispensing with the consultation requirements in relation to qualifying works shall be made in relation to the cost of the removal of asbestos from the loft area at third floor level of 10 Belsize Park Gardens London NW3 4LD (the "**Property**").
2. The parties should be aware that this decision does not concern the issue of whether the service charge costs in relation to these works and costs are reasonable and payable and those costs may be the subject of a challenge under section 27A of the Landlord and Tenant Act 1985.

The application

3. The Applicant seeks an order pursuant to s.20ZA of the Landlord and Tenant Act 1985 (as amended) ("**the 1985 Act**") for the retrospective dispensation of any or all of the consultation requirements of section 20 of the 1985 Act. The Property is described in the application a residential block conversion containing four flats (five by reference to the legal titles, of which two form one flat physically).

The background

4. The application was received by the tribunal on 5 April 2018. The application seeks dispensation in relation to removal of asbestos from the loft area of the property at third floor level. The work is stated to be urgent because the applicant's asbestos management survey dated 27 February 2018 rates the material risk of the release of fibres posing a hazard to human health at 10, the highest possible risk level.
5. The applicant indicated that it would be content for the matter to be dealt with by way of written representations.
6. Directions were made dated 9 April 2018 which set out the steps to be taken by the parties.
7. The directions provided that that any tenant who wished to oppose the application should do so by serving a statement to that effect on the tribunal and the applicant by 23 April 2018. The tribunal has not received any statements from the tenants opposing the application.
8. The directions indicated that the application would be dealt with on the basis of written representations unless any party requested an oral hearing. No party did so.

9. The tribunal received bundles of documents from the applicant's representative, Streathers Solicitors LLP on 30 April 2018, which included a statement of case by Mr M O J Jacobs, a director and secretary of 10 Belsize Park Gardens Management Company Limited, and has had regard to those documents in reaching its decision.
10. The only issue before the Tribunal is whether it should grant dispensation from all or any of the consultation requirements contained in section 20 of the 1985 Act.
11. The tribunal did not consider that an inspection was necessary.

The Applicant's case

12. In his statement of case Mr Jacobs stated that the asbestos survey produced by Salvum Limited which identified the existence of asbestos (notably Chrysotile) in the loft space at third floor level of the Property and that it confirmed that the material risk from its presence was the highest possible, requiring immediate attention. The applicant submitted this report to an independent third party, RSK Environment Limited who confirmed that the Salvum report was authoritative, having been conducted by United Kingdom accredited services laboratories
13. The applicant has obtained two estimates for the work from specialist contractors; one from Blue A Limited in the sum of £8,800 in the sum of £8,800 inclusive of VAT, and one from Inspectas Compliance Limited in the sum of £14,634 inclusive of VAT. The applicant has placed the contract for the work with Blue A Limited and at the time of Mr Jacob's statement of case (dated 4 April) it was expected that the work would commence on 9 April 2018.
14. The applicant has notified all the leaseholders of the asbestos detected, with a copy of the Salvum report, copies of the estimates and its reasons for instructing Blue A to undertake the work.

Reasons for the Tribunal's decision

15. The tribunal has the jurisdiction to grant dispensation under section 20ZA of the 1985 Act "*if satisfied that it is reasonable to dispense with the requirements*".
16. The tribunal notes that the applicant considered the need for the works to be an emergency by reason of the hazardous nature of the asbestos, and that the tribunal has not received any statements from the tenants opposing the application

17. In light of the above the tribunal considers that it is reasonable to dispense with the consultation requirements.

Application under s.20C

18. There was no application for any order under section 20C before the tribunal.

Name: Judge Pittaway

Date: 8 May 2018

Rights of appeal

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the tribunal is required to notify the parties about any right of appeal they may have.

If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber), then a written application for permission must be made to the First-tier Tribunal at the regional office which has been dealing with the case.

The application for permission to appeal must arrive at the regional office within 28 days after the tribunal sends written reasons for the decision to the person making the application.

If the application is not made within the 28 day time limit, such application must include a request for an extension of time and the reason for not complying with the 28 day time limit; the tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed, despite not being within the time limit.

The application for permission to appeal must identify the decision of the tribunal to which it relates (i.e. give the date, the property and the case number), state the grounds of appeal and state the result the party making the application is seeking.

If the tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).