



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

Case Reference : CHI/00ML/LDC/2019/0091

Property : 3 Third Avenue, Hove BN3 2PB

Applicant : 3 Third Avenue (Hove) Limited

Representative : Oakley Property (Sussex) Ltd

Respondents : The leaseholders

Representative :

Type of Application : To dispense with the requirement to consult lessees about major works

Tribunal Member(s) : Judge D. R. Whitney

Date and Venue of Hearing : Determination on Papers

Date of Decision : 17th December 2019

DECISION

The Application

1. This is an application for dispensation from the consultation requirements provided for in section 20 Landlord and Tenant Act 1985.
2. The completed application was received on 7th November 2019.
3. The application seeks dispensation from the need to consult in respect of works in the loft to remove asbestos which has been disturbed. The Application refers to a risk to occupants of the building due to an unused lift shaft which has accessible risers on each floor.
4. The Property is a detached period building with 19 leasehold flats.
5. Directions were issued on 12th November 2019. On the 18th November 2019 the Applicants representative confirmed a copy of the Application had been displayed at the property and sent to all leaseholders together with a copy of the directions.
6. The directions required the leaseholders to return a pro-forma to the Tribunal indicating whether they agreed or disagreed with the application and whether they consented to a determination on the papers.
7. The Tribunal has received a bundle of papers. No response has been received by the Tribunal from any leaseholder.

Determination

8. The bundle at tab D page 69 contains a statement from the managing agents explaining the history. It would appear that previous agents had discovered that asbestos in the loft had been disturbed and was considered a health and safety risk.
9. The new agent quite rightly prioritised the removal of the asbestos. The agent obtained quotes and method statements from Amstech and it would appear that the works were completed in November 2019.
10. The tribunal observes that no comments, either supportive or objecting, have been received from any leaseholder.
11. The tribunal has read and considered carefully all the papers within the bundle.
12. The tribunal is satisfied that works were required to remove the asbestos. Without removal there was a risk to the health and safety of the residents. Whilst the disturbance of the asbestos has been known for sometime the tribunal notes the new agent was only appointed in

May 2019. As the application indicates they have following initial investigations treated the asbestos works as a priority. The tribunal wholeheartedly agrees with this approach.

13. Considering all matters the tribunal is satisfied that the works were required. No leaseholder has raised any objection to the works. On balance it is just and fair to grant dispensation.
14. **The Tribunal dispenses with the consultation requirements in respect of the major works to remove asbestos from the loft.**
15. This decision is confined to the dispensation from the consultation requirements in respect of the major works. The Tribunal has made no determination on whether the costs of those works are reasonable or payable. A leaseholder retains the right to challenge the costs of the works by making application to the Tribunal under section 27A of the 1985 Act.

Judge D. R. Whitney

RIGHTS OF APPEAL

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application to the First-tier Tribunal at the Regional office which has been dealing with the case.
2. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.
3. If the person wishing to appeal does not comply with the 28 day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28 day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.
4. The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking