



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

Case reference : **LON/00BK/LDC/2020/0069P**

Property : **The Hall, 23A Grove end Road, St John's Wood, London NW8 9BN**

Applicant : **LJ Holdings Ltd**

Representative : **Alexander Reece Thomson LLP**

Respondents : **The leaseholders named on the application**

Representative :

Type of application : **For the dispensation of some of the consultation requirements under s.20 Landlord and Tenant Act 1985**

Tribunal members : **Judge Simon Brilliant**

Venue : **10 Alfred Place, London WC1E 7LR**

Date of decision : **31 July 2020**

DECISION

Decision of the Tribunal

The Tribunal determines that those parts of the consultation requirements provided for by s.20 of the Landlord and Tenant Act 1985 ("the Act") which have not been complied with are to be dispensed with.

This has been a remote hearing on the papers which has been not objected to by the parties. The form of remote hearing was P. A face to face hearing was not held because it was not practicable, and all issues could be determined on paper. The critical documents that I was referred to are set out below. The order made is described at the end of these reasons.

The application

1. The Applicant seeks a determination pursuant to s.20ZA of the Act for the dispensation of all or any of the consultation requirements provided for by s.20 of the Act. The application was dated 5 June 2020.
2. Directions of the Tribunal were issued on 9 June 2020 and varied on 17 June 2020.
3. The case was listed for a paper determination. No request had been made by any of the parties for an oral hearing.

The hearing

4. The matter was determined by way of a paper hearing which took place remotely on 31 July 2020.

The background

5. The premises consist of 12 flats in a purpose-built block close to Lord's Cricket Ground.

The application

6. The Applicant has applied for dispensation from the statutory consultation requirements in respect of asbestos removal works. The estimated cost of the work is £5,900 plus VAT.
7. No notice of impending works had been given. The application is said to be urgent because there is asbestos present in the basement courtyard pipework lagging and pipe service debris. An asbestos surveyor has advised that the asbestos should be removed immediately, as access to the courtyard area cannot be fully restricted and there is a potential exposure risk.
8. The urgently required works have already been carried out.
9. The only issue for the Tribunal is whether it is reasonable to dispense with the statutory consultation requirements. **This application did not concern the issue of whether any service charge costs will be reasonable or payable.**
10. No notice was received from any of the Respondents opposing the application.

The evidence

11. The Applicant's case is clearly set out in the grounds for seeking dispensation in the application notice.

12. This provides as follows:

An asbestos survey was undertaken on 21 April 2020 by Quantum Compliance. The survey has highlighted the three areas of high risk asbestos containing materials in the basement courtyard, in the pipework lagging and pipe services debris. These areas have been clearly marked with tape and signage. The asbestos surveyor specialist has advised the asbestos should be removed immediately as access to the courtyard area cannot be fully restricted. There is a potential exposure to the residents and therefore the works must commence as soon as possible.

We have received three quotations:

1) Envirowaste - £8,035 + VAT

2) T & S Environmental - £5,900 + VAT

3) Abastra - £6,975 + VAT

We will proceed with the most competitive quotation submitted by T & S Environmental who are a licensed asbestos contractor. We plan to undertake the works as soon as our application has been submitted. The contractor will be on site approximately five days.

13. The Applicant has provided the 30 page Inspection Report by Quantum Compliance and the quotation by T & S Environmental referred to above.

Decision of the tribunal

14. s.20 of the Act provides for the limitation of service charges in the event that the statutory consultation requirements are not met. The consultation requirements apply where the works are qualifying works (as in this case) and only £250 can be recovered from a tenant in respect of such works unless the consultation requirements have either been complied with or dispensed with.

15. Dispensation is dealt with by s.20ZA of the Act which provides:-

"Where an application is made to a leasehold valuation tribunal for a determination to dispense with all or any of the consultation requirements in relation to any qualifying works or qualifying long term agreement, the tribunal may make the determination if satisfied that it is reasonable to dispense with the requirements"

16. The Tribunal is satisfied that, in the particular circumstances of this case, involving the prevention of what could be a fatal disease, it is reasonable to dispense with the consultation requirements in respect of the removal of asbestos works.

17. The Tribunal's determination is limited to this application for dispensation of consultation requirements under section 20ZA of the Act.

Name: Simon Brilliant

Date: 31 July 2020

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).