



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

Case Reference	:	LON/00BK/LDC/2019/0033
Property	:	30 Gloucester Terrace, London W2 3DA
Applicant	:	30 Gloucester Terrace RTM Company
Representative	:	Steeles Law
Respondent	:	Various leaseholders of the 11 flats that comprise the property. The details of which are on the application
Representative	:	None
Type of Application	:	An application under section 20ZA of the Landlord and Tenant Act 1985 for dispensation from consultation prior to carrying out works
Tribunal Members	:	Mr I B Holdsworth FRICS MCI Arb
Date and venue of Hearing	:	8th April 2019, 10 Alfred Place, London WC1E 7LR
Date of Decision	:	8th April 2019

DECISION

Decisions of the Tribunal

The Tribunal determines that dispensation should be given from all the consultation requirements in respect of the works to remove Asbestos Content Material (ACM's), (defined as the "Asbestos Works") at 30 Gloucester Terrace London W2 3DA required under s.20ZA of the Landlord and Tenant Act 1985 (the "Act") for the reasons set out below.

The application

1. The Applicant seeks a determination pursuant to s.20ZA of the Landlord and Tenant Act 1985 ("the 1985 Act") to dispense with the statutory consultation requirements prior to carrying out a necessary scheme of works to remove asbestos content material at 30 Gloucester Terrace London W2 3DA "the property".
2. An application was received by the First-tier Tribunal dated 12th February 2019 seeking dispensation from the consultation requirements. Directions were issued on the 28th February to the Applicant. These Directions required the Applicant to advise all Respondents of the application and provide them with details of the proposed works.
3. The relevant legal provisions are set out in the Appendix to this decision.

The hearing

4. This matter was determined by written submissions. The Applicant submits a bundle of relevant materials to the Tribunal.
5. No submissions or responses are received from the Respondents.

The background

6. The property which is the subject of this application is a four/five-storey building with 11 self-contained flats. The flats are formed from the conversion of a former mansion block.
7. Major works are currently underway and at the outset of these works extensive asbestos content material (ACM's) was discovered. It is necessary for these ACM's to be removed or encapsulated prior to continuation of the substantive works. At present the tribunal are told the major works scheme is suspended.

8. The Applicants confirm that DSM Asbestos Consultants Limited (“DSM”) carried out an inspection and issued a report which identified the asbestos in various parts of the building including:
 - Rain water downpipes and cement flue;
 - Water tank housing;
 - 5 No Roof space rafters;
 - Floor of the lift motor room; and
 - Flash guards in the ground floor electrical intake riser cupboard.
9. A Notice of intention to carry out the proposed asbestos works was sent to all leaseholders on 10th January 2019.
10. A single quote was obtained for the asbestos work by the Applicants. DSM has submitted a quotation to carry out the ACM removal and the total sum quoted was £20,509 +vat.
11. It is not the intention of the applicants to carry out any further consultation about this matter.
12. The Applicant contends that ACM removal or encapsulation is needed urgently to ensure the health and safety of residents and major works contractors. The Applicants also stress that a delay in carrying out the asbestos works would frustrate the start on the major works, which could prevent the use of the scaffolding which will be installed as part of the major works scheme and thereby increase the total repair costs.
10. Prior to my determination I had available a bundle of papers which included the application, the directions and a copy of written representations prepared by the Applicant that provided information on the background to the asbestos works.
12. A copy of a specimen leases for each flat is supplied.
13. The only issue for me to consider is whether or not it is reasonable to dispense with the statutory consultation requirements in respect of the Works. This application does not concern the issue of whether any service charge costs are reasonable or payable.

The determination

14. I have considered the papers lodged. There is no objection raised by the Respondents, either together or singularly.
15. There is a demonstrated need to carry out the asbestos works urgently to prevent delays to the substantive scheme, avoid additional overall cost increases, reduce health and safety risks to residents and contractors and minimise the inconvenience to residents at the property.
16. It is for these reasons that I am satisfied it is appropriate to dispense with the consultation requirements for the asbestos works. It is noted no competitive quotes were submitted with the Application.
17. **My decision does not affect the right of the Respondents to challenge the costs or the standard of work should they so wish.**
18. **In accordance with paragraph 10 of the Directions, it is the Applicant's responsibility to serve a copy of the tribunal's decision on all Respondent leaseholders listed on the Application.**

Valuer Chairman Ian B Holdsworth

8th April 2019

Appendix of relevant legislation

Section 20 of the Act

- (1) Where this section applies to any qualifying works or qualifying long term agreement, the relevant contributions of tenants are limited in accordance with subsection (6) or (7) (or both) unless the consultation requirements have been either—
 - (a) complied with in relation to the works or agreement, or
 - (b) dispensed with in relation to the works or agreement by (or on appeal from) a leasehold valuation tribunal.
- (2) In this section “relevant contribution”, in relation to a tenant and any works or agreement, is the amount which he may be required under the terms of his lease to contribute (by the payment of service charges) to relevant costs incurred on carrying out the works or under the agreement.
- (3) This section applies to qualifying works if relevant costs incurred on carrying out the works exceed an appropriate amount.
- (4) The Secretary of State may by regulations provide that this section applies to a qualifying long-term agreement—
 - (a) if relevant costs incurred under the agreement exceed an appropriate amount, or
 - (b) if relevant costs incurred under the agreement during a period prescribed by the regulations exceed an appropriate amount.
- (5) An appropriate amount is an amount set by regulations made by the Secretary of State; and the regulations may make provision for either or both of the following to be an appropriate amount—
 - (a) an amount prescribed by, or determined in accordance with, the regulations, and
 - (b) an amount which results in the relevant contribution of any one or more tenants being an amount prescribed by, or determined in accordance with, the regulations.
- (6) Where an appropriate amount is set by virtue of paragraph (a) of subsection (5), the amount of the relevant costs incurred on carrying out the works or under the agreement which may be taken into account in determining the relevant contributions of tenants is limited to the appropriate amount.

- (7) Where an appropriate amount is set by virtue of paragraph (b) of that subsection, the amount of the relevant contribution of the tenant, or each of the tenants, whose relevant contribution would otherwise exceed the amount prescribed by, or determined in accordance with, the regulations is limited to the amount so prescribed or determined.

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).