



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

**Case Reference** : **MAN/00BU/LDC/2019/0009**

**Property** : **Flats 39-42 Ingleby Court, Stretford,  
Manchester M32 8PY**

**Applicant** : **Mr Roman Khripko**

**Representative** : **Town & City Management Limited**

**Respondent** : **Flat 39: Mr AL O'Sullivan  
Flat 40 & 42: Mr Shahzad Ahmed  
Flat 41A: Mr JJ Earnshaw &  
Mr RM Waugh**

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

**Tribunal Members** : **Mr S Moorhouse LLB  
Mr ID Jefferson TD BA BSc FRICS**

**Date of Paper  
Determination** : **15 May 2019**

**Date of Decision** : **3 June 2019**

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**DECISION**

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## **DECISION**

The application for dispensation pursuant to section 20ZA of the Landlord & Tenant Act 1985 is refused.

## **REASONS**

### **The Application**

1. The Applicant is the landlord of 4 leasehold apartments at Ingleby Court, Stretford ('the Property'). The Respondents are the leaseholders. The Applicant's representative, Town & City Management Limited manages the building.
2. The Applicant seeks dispensation pursuant to Section 20ZA of the Landlord & Tenant Act 1985 ('the Act') in respect of consultation requirements in relation to certain 'Qualifying Works' (within the meaning of the Act).
3. The Qualifying Works comprise the removal of asbestos material. The location is described in the Application as including the external soil vent points situated either end of the Property and the down pipes and gutters to both garages at the Property.

### **Paper Determination**

4. The Application was submitted on 18 February 2019. Directions were issued on 9 April 2019 requiring the Applicant to submit certain documents and inviting any Respondent to submit a response. Papers were received from the Applicant. No responses were submitted. No party having requested a hearing, the tribunal proceeded to determine the Application on the papers supplied.

### **The Law**

5. Section 20ZA of the Act, subsection (1) provides as follows:

*'Where an application is made to a 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.'*

6. The Supreme Court in the case of *Daejan Investments v Benson and others [2013] UKSC 14* set out certain relevant principles. Lord Neuberger, having clarified that the purpose of section 19 to 20ZA of the Act was to ensure that tenants are protected from paying for inappropriate works and paying more than would be appropriate, went on to state *'it seems to me that the issue on which the [tribunal] should focus when entertaining an application by a landlord under section 20ZA(1) must be the extent, if any, to which the tenants were prejudiced in either respect by the failure of the landlord to comply with the requirements'*.

## **Findings of Fact**

7. In the present case the Applicant's statement of case gives the following reasons for seeking dispensation:
  - (a) there are areas at the Property requiring asbestos removal;
  - (b) the leaseholders have been given 'notice of intention' with copy quotations for the removal of the asbestos materials and replacement with pvc; and
  - (c) it is submitted that the works are urgent as the asbestos material is degrading and needs to be replaced.
8. It is not clear why the Applicant has been consulting with the leaseholders yet wishes to dispense with section 20 consultation requirements.
9. Papers have been submitted relating to consultation. A letter addressed to 'all leaseholders of Ingleby Court' dated 5 July 2018 gives notice of the landlord's intention to carry out various works including replacing the fascia, soffits/gutters and downpipes with UPVC. A second notice dated 19 September 2018 indicated that no written observations had been received in response to the first notice and made reference to 3 quotations. A provisional intention to enter into an agreement with one of the contractors, PB & T Joiners and Builders, was notified. The Applicant additionally supplied to the tribunal copies of quotations (from the other 2 contractors) dated 5 February 2019 and 12 February 2019. Curiously the Applicant did not enclose a copy of the chosen quotation.
10. The Applicant's submission that the asbestos referred to in the Application must urgently be replaced is not supported by the papers. A specialist survey was supplied prepared by Frankham Risk Management Services Ltd in November 2014. This recommended that the presence of asbestos should be managed and the timescale within which such management should commence is 6-12 months from the date of the report. There is no evidence to support the Applicant's contention that removal works are now urgent.

## **Determination**

11. The Applicant has not demonstrated to the tribunal that the works referred to are urgent. Applying the principles in *Daejan* referred to above, if dispensation were granted and works that were not currently necessary were undertaken as a result, the leaseholders would be prejudiced by having to contribute to the cost.
12. In the circumstances set out above, the tribunal does not consider it reasonable to dispense with the consultation requirements. The Application is refused.

S Moorhouse  
**Tribunal Judge**