



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

Case Reference : **LON/00BD/LDC/2019/0135**

Property : **Various Flats at Ravensbourne House, Arlington Road, TW1 2AX**

Applicant : **Ravensbourne House St Margarets Ltd**

Representative : **Michael Richards & Co (managing agents)**

Respondent : **Various Leaseholders of Ravensbourne House**

Representative : **None notified**

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

Tribunal Members : **Judge S Brilliant (Tribunal Judge)
Mr D Jagger MRICS**

Date and venue of Paper Determination : **24 September 2019
10 Alfred Place, London WC1E 7LR**

Date of Decision : **24 September 2019**

DECISION

Decisions of the tribunal

- (1) The tribunal grants dispensation under section 20ZA of the Landlord and Tenant Act 1985 (the 1985 Act) in respect of the Works involving the removal of asbestos containing materials located in the bike store (the former boiler room). No terms are imposed on the grant of dispensation.

The application

1. The tribunal received an application for dispensation under section 20ZA of the 1985 Act on 15 August 2019.
2. Directions were issued on 21 August 2019. These provided that the case be allocated to the paper track, to be determined upon the basis of written representations. No objections were received. The paper determination took place on the 24 September 2019.
3. The relevant legal provisions are set out in the Appendix to this decision.

The background

4. The Property is a five storey, converted, Victorian detached building containing 14 flats. The Applicant is the freeholder of the Property and the Respondents are the leaseholders of the 14 flats. The managing agents are Michael Richards & Co
5. The grounds for seeking dispensation were set out in the application together with a statement of case set out in the applicant's bundle. These can be summarised as follows:

(a) On 18 June 2019, Michael Richards were notified by West Four Risk Management Solutions, asbestos surveyors, that 'asbestos containing materials' in debris form (thermal insulation residues) were discovered in the former boiler room, now used as a bike store. The store was subsequently locked and warning notices placed on the door. A positive asbestos fibre identification report confirmed the presence of fibre.

(b) On 21 June 2019, letters were sent to the leaseholders advising that asbestos removal contractors will attend site to wipe down the bikes within the store and remove them.

(c) On 25 June 2019, a specification and scope of the works for asbestos removal and environmental cleaning was prepared and sent out to tender on the 26 June 2019.

(d) On the 8 August 2019 two quotations were received in order to carry out the remedial works.

(e) On 12 August Leaseholders were informed of the two quotes and the managing agents were intending to apply to the Tribunal for dispensation of section 20 consultation process and that the works would commence on 27 August at the lower of the two quotations.

6. The tribunal has determined the application based upon the Applicant's statement of case and bundle, the information set out in the original application form together with the specialist Asbestos Management Survey Report undertaken by West Four Risk Management Solutions.

The tribunal's decision

7. The tribunal grants the application for dispensation under section 20ZA of the 1985 Act, in respect of the Works. No terms are imposed on this grant of dispensation.

Reasons for the tribunal's decision

8. The works were clearly urgent, given the health and safety risks to the leaseholders. The Applicant's bundle of documents contained the Asbestos Management Survey Report which identified the material risk to be high. There was no time for the Applicant to consult with the Respondents before undertaking the Works.
9. No objections were received from the 14 leaseholders in connection with the application for dispensation from full consultation for the works to remove the asbestos.
10. Having regard to the particular facts of this case it is reasonable to dispense with the consultation requirements for both the works. However, the tribunal makes no determination on the selection of the contractor to undertake the completed works or the cost of the asbestos removal. Nothing in this decision prevents the Respondents from seeking a determination of their liability to contribute to the cost of the Initial Works or the Proposed Works, via their service charges, pursuant to section 27A of the 1985 Act.

Name: Simon Brilliant

Date: 24 September 2019

Appendix of relevant legislation

Landlord and Tenant Act 1985 (as amended)

Section 20

- (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) the appropriate 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.

Section 20ZA

- (1) Where an application is made to the appropriate tribunal for a determination to dispense with all of 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.