



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

**Case Reference** : LON/00AU/LDC/2016/0113

**Property** : Southside, 32 Carleton Road,  
London N7 0QH

**Applicant** : Southside RTM Company Limited

**Representative** : S. Georgiades at Islington  
Properties Limited

**Respondent** : Lessees listed in the Schedule to the  
application

**Representative** : N/A

**Type of Application** : S20ZA Landlord and Tenant Act  
1985 application for dispensation  
with consultation requirements

**Tribunal Members** : Judge Hargreaves

**Date and venue of  
Hearing** : 10 Alfred Place, London WC1E 7LR

**Date of Decision** : 28<sup>th</sup> November 2016

**DECISION**

The Tribunal directs that it is reasonable to dispense with the consultation requirements of s20 Landlord and Tenant Act 1985 in relation to the works referred to in letters to the Respondents dated 11<sup>th</sup> October 2016 and described below in the decision, namely works in relation to making safe the basement area of the above property from asbestos containing materials.

## REASONS

1. On the 25<sup>th</sup> October 2016 the Tribunal received an application from the Applicant dated 20<sup>th</sup> October 2016 seeking dispensation from the consultation requirements of s20 Landlord and Tenant Act 1985 for qualifying works proposed to *“remove/encapsulate the asbestos containing materials identified within the basement area [of the property] under controlled conditions: this project will include removing all redundant plant and pipework, scraping the walls, floor and surfaces as identified within the asbestos management survey.”*
2. All references are to documents provided by the Applicant in a bundle for the Tribunal.
3. In August 2016 RPS Consultants reported to the Applicant following a re-inspection of the property on 5<sup>th</sup> August 2016. See tab 3. The conclusion was that *“Access to the basement boiler room should be restricted until the necessary remedial works have been undertaken by a licensed asbestos removal contractor.”* Consequently the Applicant has obtained three estimates for the required works, which are at tab 4:- (i) Scancross Environmental Services Limited dated 11<sup>th</sup> October 2016 (ii) McGee Group Limited dated 1<sup>st</sup> September 2016 and (iii) Abastra dated 7<sup>th</sup> September 2016. All estimates exceed s20 limits and therefore require statutory consultation processes to be undertaken with leaseholders.
4. The Applicant sent letters to all leaseholders dated 11<sup>th</sup> October 2016 outlining the works required (the notice of intention). See tab 5.
5. However, the Applicant explains the reasons for making the application as follows (see p8 of the application at tab 1): *“... the communal intercom system is not presently working for all flats (one being a disabled resident) and access is required to the plant/control panel for repairs which is otherwise presently restricted due to the presence of asbestos containing materials which will need to be removed/encapsulated prior to safe access being given to contractors to undertake repairs to the communal intercom system. Likewise, the telecoms for all of the flats within the building is also located within the basement so if any flat has an issue with their phone or broadband, their engineer will not be able to access the basement for investigations /repairs. Given the urgency of the matter, and especially considering that there is a disabled resident in the building whose intercom is not working within their flat, we have been asked by our client to seek dispensation for these works.”*
6. There is therefore a very strong basis on the facts for making the application for dispensation. Not only is there an asbestos risk, but it blocks a means of repair for the communications systems of the inhabitants of the property (including at least one disabled resident),

which contains 42 flats. The possibility of disruption and inconvenience, with potentially grave consequences, is clear.

7. The Tribunal directed the Applicant to serve the application on the Respondents by 31<sup>st</sup> October. This has been done. There has been no objection from any of the Respondents, nor any response of any sort from them. It is possible therefore to infer that they either agree to the application or cannot show any good reason to object in terms of showing that it would be to their prejudice if they are deprived of the opportunity of being consulted.
8. The application is to be considered in the light of *Daejan Investments v Benson and others* [2013] UKSC 14, which has been considered and applied.
9. In the circumstances there is no reason to refuse the application, which is unopposed and has substantial merit. This decision only extends to dispensation with the requirement to consult and not with any other requirements of the Landlord and Tenant Act 1985.

Judge Hargreaves  
28<sup>th</sup> November 2016

## **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).