



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

**Case reference** : **LON/00BA/LDC/2021/0200**

**Applicants** : **(1) Prudential UK Real Estate  
Nominee 1 Ltd (2) Prudential UK  
Real Estate Nominee 2 Ltd**

**Respondents** : **Multiple Leaseholders listed in the  
Application**

**Property** : **The Chorus, 122-134 (even) The  
Broadway and 2-18 (even) Stanley  
Road, Wimbledon, London SW19  
8RL**

**Tribunal members** : **Judge Tagliavini  
Mr D Jagger MRICS**

**Date of decision** : **5 October 2021**

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**DECISION ON AN APPLICATION UNDER SECTION 20ZA OF THE  
LANDLORD AND TENANT ACT**

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## **Covid-19 pandemic: description of hearing**

**This has been a remote hearing which has not been objected to by the parties. The form of remote hearing was P: PAPERREMOTE. A face-to-face hearing was not held because it was not practicable, and all issues could be determined on paper. The documents that the tribunal was referred to are in a main bundle numbered 1-314. In the Index to this Bundle the applicants referred to documents located in the ‘data room’ which included the Appendices 1 to 19 referred to in the Statement of Case, and to which the tribunal was provided with access.**

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## **The tribunal’s summary decisions**

- A.** The tribunal finds that it is reasonable and appropriate to dispense with the consultation requirements of section 20 of the Landlord and Tenant Act 1985 in respect of:
- (1)** The Proposed Works to Block B comprising the removal and replacement of the cladding system which contain combustible material, works to the fire cavity barriers which are inadequate, and works to the cavity closers provided around window openings which are not functional and as set out in the specification of Hollis dated 1 December 2020 and the Tender Report of Hollis dated 16 April 2021; and
  - (2)** The engagement of The Experts Hollis as (i) Building Surveyor (ii) Cost Consultant (iii) PRP as Architect (iv) Clark Banks as Fire Engineer (v) Peacock & Smith as Planning Consultant and (vi) Socotec as Approved Inspector.
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## **Background**

- 1.** This is an application under section 20ZA seeking dispensation from consultation under the provisions of the Landlord and Tenant Act (‘the 1985 Act’) made by the freeholders of a Building comprising Block A (commercial premises only), Block B (mixed commercial and residential) and Block C (residential only).

2. This application concerns the dispensation from consultation in respect of cladding/fire safety works in respect of Block B only ('the Proposed Works'). However, due to the terms of the leases, contributions from the lessees of the other Blocks are said to be required. Works to Block C are not contemplated at the present time by the applicants, as it is less than 18m in height and therefore does not present the same risk to health and safety as presented by Block B and does not meet the criteria for the current government fund.
3. A Notice of Intention dated 28 January 2021 was sent the various respondents setting out the applicants' intention to carry out works to remove/replace cladding and fire safety works ('the Proposed Works'). A number of Observations and questions were raised as a result (although it is unclear from whom these were received).

### **The applicant's case**

4. In support of the application the tribunal provided a bundle of documents numbered 1 to 316 in addition to access to the documents in the 'data room', which included a description of the Proposed Works, the estimated cost of the works and revised estimate and Tender Report. The applicant also provided a letter dated 26 July 2021 from MHCLG in which the applicants were said to have been approved for an award of £3,261,407 (including VAT) towards the estimated cost of the Proposed Works as set out in the Faithdean Estimate dated 1 December 2020 in the sum of £2,150,610.44 and the revised Faithdean Estimate dated 12 April 2021 in the sum of £3,090,000.51

### **The respondent's case**

5. Objections to the application were received from Metropolitan Housing Trust Limited ('MHT Ltd') asserting that it may be financially prejudiced for not being consulted in accordance with section 20 of the 1985 Act. In its objections the respondent asserted that,
  - (i) The applicant should have requested an extension of time from the Ministry of Housing Communities & Local Government ('MHCLG') about an extension of time from the deadline of 30 June 2021 in which to make an application for funding of the Proposed Works in order to allow full consultation.
  - (ii) The applicant should have approached MHT Ltd for the names of contractors able to carry out the Proposed Works more cheaply.
  - (iii) The applicant should carry out works to Block C at the same time in order to minimize costs.
  - (iv) The 'Building' comprises Blocks A B and C and therefore an application for funding should have been made to the MHCLG for funding for works to both Blocks B and C.

- (v) Currently, the applicant has initiated a legal claim against the developers of the Block(s) and if successful, dispensation from consultation would not be required.
- (vi) Some of the works may not be required or could be carried out differently and at a lesser cost.

### **The tribunal's decision and reasons**

6. The tribunal determines that is reasonable and appropriate to dispense with the consultation requirements of section 20 of the 1985 Act in respect of:
  - (a) The Proposed Works to Block B comprising the removal and replacement of the cladding system which contain combustible material, works to the fire cavity barriers which are inadequate, and works to the cavity closers provided around window openings which are not functional and as set out in the Tender Report of Hollis dated 16 April 2021.
  - (b) The engagement of The Experts Hollis as (i) Building Surveyor and (ii) Cost Consultant (iii) PRP as Architect (iv) Clark Banks as Fire Engineer (v) Peacock & Smith as Planning Consultant and (vi) Socotec as Approved Inspector.
7. The tribunal is satisfied that the respondent MHT Ltd, was provided with sufficient opportunity to provide details of alternative contractors or obtain a broad alternative costing of works but has failed to do so. The tribunal is also satisfied that the MHT Ltd has failed to demonstrate any prejudice that might be caused by the dispensation sought by the applicants. The tribunal is of the view that prejudice is highly likely to be caused to all the respondents if the funding of £3,261,407 (including VAT) that has been approved is 'lost' and the applicant's ability to enter into the necessary contracts and commence the Proposed Works is delayed.

Name: Judge Tagliavini

Date: 5 October 2021