



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

**Case reference** : **LON/00AY/LDC/2021/0057**  
**HMCTS Code:** : **P:PAPERREMOTE**

**Property** : **Parliament House, 81 Black Prince  
Road, London SE1 7SZ**

**Applicant** : **Adriatic Land 9 Limited**

**Representative** : **JB Leitch Ltd**

**Respondents** : **The several leaseholders listed in the  
application**

**Representative** : **N/A**

**Tribunal members** : **Judge Tagliavini  
Mr P Roberts RIBA DipArch**

**Date & place of  
hearing** : **18 May 2021  
P:PAPERREMOTE**

**Date of decision** : **18 May 2021**

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**DECISION**

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

This has been a remote paper hearing which has been consented 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 in a remote hearing. The tribunal was referred to the applicant's Final Hearing Bundle pages 1 to 633. The order made is described at the end of these reasons.

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## **Tribunal's summary decision**

- (1) The tribunal grants the application seeking dispensation from the consultation required by section 20 of the Landlord and Tenant Act 1985, as sought by the applicant in respect of premises situate at Parliament House, 81 Black Prince Road, London SE1 7SZ.**
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## **The application**

1. The applicant landlord seeks dispensation from the consultation requirements imposed by section 20 of the Landlord and Tenant Act 1985 in respect of works which will include the removal of existing cladding panels, removal of existing combustible insulation and other combustible materials and replacement with non-combustible material and reinstatement of original stone cladding panels; the installation of horizontal and vertical fire barriers; the replacement of Back Glass and PUR insulation panels and the replacement of timber decking to balconies.
2. The subject premises comprise a twenty-four storey mixed use block of 104 residential apartments and 3 commercial premises located at ground level ('the Premises'). Eighty-one of the apartments are subject to the terms of long leases and 23 apartments are subject to the terms of leases held by a Housing Association.

## **The applicant's case**

2. In support of its application the tribunal was provided with a bundle of documents containing pages 1 to 633 and included the applicant's Statement of Case, reports from Cognitive Architecture Ltd 'CAL' dated 26 November 2020, ORSA Review provided on 9 November 2020 and the fire engineer's report of Vemco Consulting Limited of November 2020. A witness statement

of Jenna Thompson, a Senior Property Manager at the applicant's managing agents Rendall & Rittner dated 11 February 2021 was also provided to the tribunal in support of the application.

3. The applicant drew the tribunal's attention not only to the risk to health and safety the Premises presented in its current state (as confirmed by the various reports and review) but also the need to be able to move quickly to starting the works project if government funding was approved under the Government Building Safety Fund ('BSF') to which an application has been made by the applicant with the initial technical eligibility checks having been passed.
4. The applicant asserted that it had made this application to the tribunal in order to be able to commence works as quickly as possible with its chosen contractor. A delay caused by being required to follow all of the consultation procedures (stage one consultation, having already been undertaken) creates the risk that the works could not proceed immediately, funding would be lost, and a further delay would be caused by the unavailability of suitably qualified contractors, who are presently in high demand.
5. As the BSF timescales had required the applicant to submit a full cost application by 31 December 2020 (extended to 30 June 2021) with 31 March 2021 deadline for works to begin extended to 30 September 2021, the applicant had instructed Capital Property & Construction Consultants Limited (CPCC) via a Negotiated Design & Build tender process with a single contractor. Initially the timescales imposed by BSF did not allow a full s.20 consultation process to be undertaken. In view of the uncertainties around the government provided funding and the need, if approved, to commence works quickly, the applicant stated that it had continued to instruct CPCC with a view to ensuring the availability of the contractor. Further, if the contractor were changed at this late stage, significant further costs were likely to be incurred and the expertise of a specialist contractor that minimises risk in relation to design, delivery and cost in the Design and Build approach were likely to be lost.

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

6. Responses were received from 36 lessees (including one on a shared ownership scheme) of Parliament House and these were included in the applicant's bundle at Tab C, pp 494 to 631. The responses received from lessees varied with a number not objecting to the application for dispensation from consultation but seeking confirmation that CPCC fully understood the nature of the defects identified and the remedy that was required. Other lessees did not object to the works themselves but to their cost with several lessees expressly reserving their position on this issue, in order to challenge the cost and standard of works at a later date.

7. Other lessees objected to the works on the basis that further investigations should be carried out before any works were commenced in order to establish the necessity of the works and all avenues explored in respect of the liability to pay for the works before the landlord commenced on its proposed programme of 'cladding' works. Other lessee referred to obtaining their own reports and some lessees referred to the proposed works as possibly being insufficient to remedy defects and other lessees required further information and answers to questions they had previously raised with the landlord.

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

8. The tribunal is aware of the nature and scope of the works proposed and their substantial cost. However, the tribunal is satisfied that a defect has been identified that presents a real danger to the health and safety of the lessees. The tribunal is also satisfied that the Design and Build approach adopted by the applicant is not unreasonable. Further, the tribunal determines that in light of the uncertainties of the provision of government funding and its requirements to commence works at an early date, that it is likely that a significant disadvantage and prejudice may be caused to the lessees if the application of dispensation with stage 2 of the section 20 consultation process were not granted. In addition, it is likely that in the present market, due to the number of replacement cladding projects in the industry, a suitable contractor would not be found to commit to this contract.
9. Therefore, the tribunal grants the dispensation sought in respect of the works set out at paragraph 30 of the applicant's Statement of Case dated 10 February 2021.

**Signed: Judge Tagliavini**

**Date: 18 May 2021**

### **Rights of appeal from the decision of the tribunal**

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).