



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

**Case Reference** : **LON/00BJ/LDC/2021/0036  
V :FVHREMOTE**

**Property** : **Cambridge Mansions, Cambridge Road,  
London SW11 4RX**

**Applicant** : **61-82 Cambridge Mansions (Freehold)  
Ltd**

**Representative** : **Mr J Reed**

**Respondents** : **The leaseholders as named on the  
application**

**Representative** : **Mr L Matania, a leaseholder appeared  
on his own behalf. There was no formal  
representation on behalf of the other  
leaseholders.**

**Type of  
Application** : **S20ZA Landlord and Tenant Act 1985**

**Tribunal Member** : **Judge F J Silverman MA LLM  
Mr T Sennett MA FCIEH**

**Date of video  
hearing** : **27 April 2021  
Remote video hearing**

**Date of Decision** : **30 April 2021**

**This has been a remote video hearing which has been consented to by the parties. The form of remote hearing was V:FVHREMOTE . A face to face hearing was not held because it was not practicable and all issues could be determined in a remote hearing. The documents to which the Tribunal was referred are contained in an electronic bundle comprising approximately 200 pages the contents of which are referred to below. The orders made in these proceedings are described below.**

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## **DECISION**

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The Tribunal determines that it will exercise its discretion to dispense with the consultation requirements imposed by s.20 of the Landlord and Tenant Act 1985 on the grounds that the Respondents were notified of the application under s20ZA and the external fire wall surveys were desired timeous to ensure the safety of the building for its residents and visitors.

## **REASONS**

1. By an application made to the Tribunal dated 03 February 2021 the Applicant seeks a determination of its application for dispensation from the consultation requirements imposed by s. 20 of the Landlord and Tenant Act 1985.
2. Directions were issued by the Tribunal on 17 February 2021.
3. This matter was determined by a remote video consideration V:VFH REMOTE on 27 April 2021 at which the Tribunal considered the Applicant's application and accompanying documents. An email from Mr Matania was also before the Tribunal but documents and photographs sent by him to the Tribunal office and received by it only on the morning of the hearing were disallowed as being too late for inclusion in the documents for consideration, particularly as they had not been seen by the Applicant or the Tribunal.

4. The Directions issued by the Tribunal had been sent by the Applicant to all the Respondents asking them to respond and to indicate whether or not they opposed the application. The only letter of objection, dated 20 February 2021, was from Mr Matania and was addressed to the Applicant (page 25). Mr Matania later wrote a letter of objection direct to the Tribunal (15 March 2021). Its contents together with the Applicant's response were both considered by the Tribunal when making its decision.
5. The Applicant applied for dispensation from the statutory consultation requirements in respect of external wall surveys of the building undertaken in order to comply with current requirements implemented in the light of the Grenfell disaster.
6. The Applicant applied for dispensation from the statutory consultation requirements in respect of external firewall surveys which were carried out in August/September 2020. The estimated cost exceeded the threshold specified in the Service Charges (Consultation Requirements) Regulations 2003 which requires the landlord to consult the tenants if the landlord plans to carry out qualifying works which would result in the contribution of any tenant being more than £250.
7. Initially quotes were obtained in March/April 2020 but the companies who submitted those quotes subsequently withdrew either because of the escalating cost of their professional indemnity insurance or because of pressure of work. Two further quotes were obtained and the Applicants proceeded with the least expensive of the two.
8. The Applicants accept that they did not undertake any statutory consultation because of the urgency of the matter and the need to apply for government funding. They maintain that the survey was needed because the building is over 18 metres in height as explained to the lessees at a residents' management meeting in March 2020.
9. Some aspects of the building failed the first stage of the survey resulting in a second more invasive survey being carried out leading ultimately to the issue of an EWS1 certificate.
10. Mr Matania's letter of 20 February 2021 focuses on the lack of consultation and cost of the surveys. When questioned by the Tribunal about the reasons for his objection he said that cost was not the cause of his complaint. He maintained that the survey was totally unnecessary because the building height was less than 18m at the relevant point and therefore did not legally require an EWS1 certificate. He did not however produce to the Tribunal any professionally supported evidence or statement to substantiate his assertion.
11. The Applicant said that the Regulations were not entirely clear and that the building was thought to measure just over the 18m limit necessitating an EWS1 inspection. As managing agent, he had attempted to measure the building but had not succeeded in doing so and had therefore engaged CD Surveys Ltd who had provided a

measured building survey and plan (page 128). It had been considered prudent to proceed with the survey and recommendations to ensure the safety of the building for its occupiers. He also said that lenders and buyers were requiring these certificates before proceeding with transactions.

12. While the Tribunal respects Mr Matania's opinion as an architect, it accepts and support the Applicant's caution in treating the building as being subject to the Regulations and proceeding with the survey and associated work for the safety of the residents and visitors. To have ignored the possible risk of fire and its consequences is unthinkable. The route which the Applicant took is an acceptable choice , although its execution took longer than anticipated. The fact that other options or timescales might have been available is not relevant.
13. The Applicant therefore requests the Tribunal to grant a dispensation from compliance with the requirements of the section in order to allow the cost of the works to be recovered as service charges.
14. The Tribunal was not asked to inspect the property and in the context of the issues before it did not consider that an inspection of the property was either necessary or proportionate.
15. The Tribunal is being asked to exercise its discretion under s.20ZA of the Act. The wording of s.20ZA is significant. Subs. (1) provides:

“Where an application is made to a [leasehold valuation] 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*” (emphasis added)

16. The Tribunal understands that the purposes of the consultation requirements is to ensure that leaseholders are given the fullest possible opportunity to make observations about expenditure of money for which they will in part be liable
17. The safety of a building for both occupiers and visitors is of paramount importance. Having considered the submissions made by the Applicant, the Tribunal is satisfied that the work carried out was necessary and that no undue prejudice has or will be caused to or suffered by the Respondents by the grant of dispensation under s20ZA in this case.
18. This determination does not affect the leaseholders' rights to apply to the Tribunal challenging the payability or reasonableness of the service charges.

Judge F J Silverman as Chairman  
**Date 30 April 2021**

Note:  
Appeals

## **RIGHTS OF APPEAL**

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application by email to [rplondon@justice.gov.uk](mailto:rplondon@justice.gov.uk).
2. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.
3. If the person wishing to appeal does not comply with the 28 day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28 day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.
4. The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking.