



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

Case Reference : **MAN/00BY/LSC/2021/0011V**

Properties : **Blocks 1 – 7 Royal Quay, Kings Waterfront,
Liverpool, L3 4EY**

Applicants : **(1) Kings Waterfront (Management
Company) Ltd.
(2) Liverpool Quays Management Ltd.**

Represented by : **Mr Howard Lederman
instructed by J B Leitch Solicitors Ltd.**

Respondent : **various leaseholders (see Annex A)**

Type of Application : **Under s.27A of the Landlord and Tenant Act
1985**

Date of hearing : **28 February 2022**

Tribunal Members : **Judge P Forster
Mr N Swain**

Date of Decision : **10 March 2022**

Date of Determination : **11 March 2022**

DECISION

Decision

- (1) The 1st Applicant has the right to recover from the Respondents with leasehold interests in flats in Block 2 Royal Quay, Kings Waterfront, Liverpool, L3 4EY under the service charge provisions in the respective leases the costs of installing a new fire alarm system in Block 2. In this respect, the costs of £39,000 are reasonable costs.

- (2) The Applicants have the right to recover from the Respondents under the service charge provisions in the respective leases the costs of of the professional fees for contract administration and grant application in respect of Blocks 1 – 7, Royal Quay, Kings Waterfront, Liverpool, L3 4EY. In this respect, the costs of £2,338.50 for Block 2 and £5,339.74 for Blocks 1, 3, and 7, and £5,339.74 for Blocks 4, 5 and 6 are reasonable costs.

Background

1. This is an application under s.27A of the Landlord and Tenant Act 1985 for the Tribunal to determine the liability to pay and reasonableness of services charges for the costs of installing new fire alarms. The application was initially in respect of seven blocks of flats, Blocks 1 – 7 Royal Quay, Kings Waterfront, Liverpool, L3 4EY, but is now limited to Block 2. The costs of installing the alarms in Blocks 1, 3, 4, 5, 6 and 7 are to be funded by the Building Safety Fund. Block 2 does not qualify for funding but since a recent change in the qualifying conditions, an application for funding has been submitted.

2. The Applicants also ask the Tribunal to determine the liability to pay and reasonableness of the professional fees for contract administration and grant application in respect of all seven blocks, Blocks 1, 2, 3, 4, 5, 6 and 7.

3. The Applicants are (1) Kings Waterfront (Management Company) Ltd. and (2) Liverpool Quays Management Ltd. They are residents' management companies which are parties within tripartite leases of the seven blocks of flats. The Applicants are contractually responsible for delivering services under the leases. Service charges are payable to the Applicants.
4. Kings Waterfront (Management Company) Ltd. is the management company within the leases of Blocks 1, 2, 3, and 7. Liverpool Quays Management Ltd. is the management company within the leases of Blocks 4, 5 and 6.
5. On the evidence provided: the seven blocks contain residential flats. Blocks 1, 3, 4 and 7 have seven floors including the ground floor. The penthouses have a mezzanine floor only accessible from the penthouse. Block 2 has six floors including the ground floor and the penthouse has a mezzanine floor. Blocks 5 and 6 have eight floors including the ground floor and the penthouses have a mezzanine floor. Each block has 2 staircases providing access to all floors. Photographs of the blocks are included in the Applicants' bundle of documents.
6. Mainstay Residential Ltd. was appointed in March 2020 as managing agents and carries out the management functions including maintenance. The previous managing agent was Premier Estates Ltd.
7. The Respondents are the leasehold owners respectively of each of the flats in the seven blocks. They are listed in the attached schedule.
8. Specimen leases in respect of Blocks 1, 2, 3 and 7 and Blocks 4, 5 and 6 are included in the Applicants' bundle of documents.
9. The costs which are the subject of the application are:

<u>Block</u>	<u>Installation of fire alarm</u>	<u>Professional fees</u>
1, 3 & 7		£5,339.74
2	£39,000	£2,338.50

4, 5 & 6		£5,339.74
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10. Directions dated 17 February 2021 were issued to the parties providing for them to file a statement of case together with copies of the documents they wish to rely on at the hearing, including signed witness statements. The Applicants complied with the Directions.
11. The Applicants served each of the Respondents with the Directions and Response Form. Thirteen Response Forms were returned in respect of 17 flats. Some of the Respondents own more than one flat. Of those who returned Response Forms only three stated that they would submit written submissions and of those, two did so. An additional written submission was made by Mr McGuinness who attended the hearing. Only three of the Respondents, not including Mr McGuinness, asked for a hearing but none of them attended.
12. The hearing was conducted by video on 28 February 2022. The Applicants were represented by Mr Howard Lederman, Counsel, instructed by J B Leitch Solicitors Ltd. and Mr McGuinness was the only Respondent to attend. The Tribunal heard evidence from Dawn Ward on behalf of the Applicants and from Mr McGuinness. Oral submissions were made by Mr Lederman, and Mr McGuinness before the Tribunal reserved its decision.

The Applicants' case

13. The Applicant's case is set out in detail in their statement of case. The Applicants are named as resident management companies within the long leases of the seven blocks. Morrison Properties Ltd. is the landlord of the seven blocks under a headlease dated 14 October 1999 for a term of 125 years less 5 days from 14 October 1999. The Respondents hold their leasehold interests under long residential leases. The freehold and leasehold titles are registered at HM Land Registry.

14. The blocks were subject to numerous fire safety defects which gave rise to a significant risk of fire spread on the exterior of the buildings. The Applicants instructed experts to investigate and report on the fire risk. The experts identified the defects and recommended remedial works to be carried out. Interim measures were put in place which included a waking watch. The costs of these actions, some of which were recovered from the Waking Watch Relief Fund, are not the subject of these proceedings.
15. A specification of works and tender documents were prepared on behalf of the Applicants and the works have now been carried out.

The Respondents' case

16. Only three of the Respondents made written submissions in response to the proceedings, they were Ms Bunni, (154 Royal Quay), Mr Shimmin (76 Royal Quay) and Mr McGuinness (194 Royal Quay). None of these Respondents disputed their liability to pay for the alarms or professional fees under the terms of their leases. Questions were raised about the liability of third parties to meet the costs. Comment was made on the amount of information provided to and consultation with the leaseholders. None of the Respondents disputed the costs of the works or the professional fees.
17. Mr McGuinness, who was the only leaseholder to attend the hearing, in his email sent on 18 February 2021, said that he did not agree to the costs being added to the service charge because they are for the ongoing maintenance of the building not fixing problems with the original build. He stated these should be at the cost of the landlord or the developer to address issues with the original build quality. Mr McGuinness also raised issues in respect of insurance fees and the lack of segmentation between the apartments. He said that the service fees are no longer reasonable.

18. At the hearing, Mr McGuinness, after listening to what was said, recognized that the issues he had raised are not the subject of the proceedings. Like many leaseholders across the country, he feels that the developers should be the ones paying for the costs of repairing original defects with the buildings. Mr McGuinness did not dispute that he or other leaseholders are liable to pay for the costs of the alarms or professional fees under the service charge provisions in their leases and he did not challenge the amount of the costs.

The law

19. S.18 of the Act defines “service charges” and “relevant costs”:
- (1) In the following provisions of this Act “service charge” means an amount payable by a tenant of a dwelling as part of or in addition to the rent—
 - (a) which is payable, directly or indirectly, for services, repairs, maintenance, improvements or insurance or the landlord’s costs of management, and
 - (b) the whole or part of which varies or may vary according to the relevant costs.
 - (2) The relevant costs are the costs or estimated costs incurred or to be incurred by or on behalf of the landlord, or a superior landlord, in connection with the matters for which the service charge is payable.
 - (3) For this purpose—
 - (a) “costs” includes overheads, and
 - (b) costs are relevant costs in relation to a service charge whether they are incurred, or to be incurred, in the period for which the service charge is payable or in an earlier or later period.
20. S.19 of the 1985 Act deals with limitation of service charges:
- (1) Relevant costs shall be taken into account in determining the amount of a service charge payable for a period—
 - (a) only to the extent that they are reasonably incurred, and
 - (b) where they are incurred on the provision of services or the carrying out of works, only if the services or works are of a reasonable standard; and the amount payable shall be limited accordingly.
 - (2) Where a service charge is payable before the relevant costs are incurred, no greater amount than is reasonable is so payable, and after the relevant

costs have been incurred any necessary adjustment shall be made by repayment, reduction or subsequent charges or otherwise.

21. S.27A of the 1985 Act deals with the liability to pay service charges:
- (1) An application may be made to the Residential Property tribunal for a determination whether a service charge is payable and, if it is, as to—
 - (a) the person by whom it is payable,
 - (b) the person to whom it is payable,
 - (c) the amount, which is payable,
 - (d) the date at or by which it is payable, and
 - (e) the manner in which it is payable.
 - (2) Subsection (1) applies whether or not any payment has been made.

Reasons for the decision

22. The title structure is not in dispute. It is set out in detail in the Applicants' statement of case. Briefly, the landlord of blocks 1 and n7 is Morrison Properties Ltd., the landlord of blocks 2 and 3 is Kings Waterfront (Management Company) Ltd. and the landlord of blocks 4, 5 and 6 is Liverpool Quays Management Ltd. The term of the leases is 125 years less 5 days from 14 October 1999. The Applicants are respectively the named residents' management companies in respect of Blocks 1, 2, 3 and 7 and Blocks 4, 5 and 6.
23. The flats are subject to long residential leases. The same terms apply in all of the leases. The terms of the leases are not in dispute. Mainstay Residential Ltd. manages the blocks on behalf of the Applicants.
24. The leases are in similar terms with some variations between the 1st and 2nd Applicants' leases. Mr Lederman very fairly accepted that the 2nd Applicant is in some respects in a less robust position than the 1st Applicant, but he submitted, and the Tribunal accepted that the relevant provisions in all the leases establish the Respondents' liability to pay for the fire alarms and professional fees.

25. The relevant clauses in the 1st Applicant's leases are clauses 1 and 6, and Part II of the Seventh Schedule.
26. The relevant clauses in the 2nd Applicant's leases are clauses 1 and 5, and paragraphs 7 of the Second Schedule, paragraphs 1 and 2 of the Fourth Schedule, and paragraphs 2 and 4 of the Fifth Schedule and Part B of the Sixth Schedule and the Eighth Schedule.
27. The blocks have numerous fire safety defects which give rise to a significant risk of fire spread on the exterior of the buildings. The Applicants applied to the Building Safety Fund for the costs associated with the cladding replacement on Blocks 5 and 6. These are the only blocks which meet the 18-metre height threshold. Applications were also made to the Walking Watch Relief Fund and the Temporary Fire Alarm Fund.
28. The capital costs of new fire alarms are due to be or have been met by the Building Safety Fund in six of the seven blocks. The Tribunal is only asked to make a determination in respect of Block 2. The Applicants also ask for a determination in respect of the professional fees for all seven blocks.
29. The Respondents do not oppose the application. This leaves the Tribunal to consider the evidence submitted and in particular to consider the terms of the various leases. There is no question that the works were necessary to ensure the safety of everyone in the seven blocks. There is no challenge to the scope of the works. The Tribunal finds that under the relevant provisions in the leases the Respondents are liable to pay the Applicants for the works and professional fees claimed as a service charge. It is worth making the point that the Respondents are the owners of the Applicant management companies. They may feel with some justification that the original developers or landlords should be liable for the costs incurred but it is clear that the burden falls on them under the structure of the leases.

30. Dawn Ward, an Associate Director at Mainstay Residential Ltd., in her witness statement dated 11 February 2022, and Kate Magill, another Associate Director, in her statement dated 10 March 2021, explain how the works have been funded and the work undertaken to obtain the funding. Ms Ward provides evidence about the costs of the works, totaling £326,710.23, and a breakdown between the blocks. She also provides evidence about the amount of professional fees incurred and how they are attributable to each of the blocks. Within the Applicants' bundle of documents relevant invoices are produced to support the Applicants' claims.
31. The amounts claimed by the Applicants are not challenged. On the evidence provided, the Tribunal finds that the costs of the works and the professional fees are reasonable.
32. The leaseholders who responded to the proceedings expressed some concerns about the amount of consultation that has taken place between them and the Applicants. There was no express reference to the statutory consultation provisions in s.20 of the Commonhold and Leasehold Reform Act 2002 and none of the Respondents have sought to rely on these provisions.
33. There is no application under s.20C of the 1985 Act to prevent the costs incurred in connection with these proceedings from being recovered as part of the service charge. Nor has paragraph 5A of Schedule 11 to the Commonhold and Leasehold Reform Act 2002 been raised to reduce or extinguish the Respondents' responsibility to pay an administration charge. The Tribunal makes no order in respect of either of these provisions.

Conclusions

34. The Tribunal makes the determinations as sought by the Applicants which are set out above.

Dated 10 March 2022

Judge P Forster

Annex A

MAN/00BY/LSC/2021/0011

Ms Janet Robinson,	Apartment 1, 1 Royal Quay
Mr Tyrone M Samsonroy & Mr Anil Sharma,	Apartment 2, 1 Royal Quay
Malcolm Paul Smith & Carol Ann Smith,	Apartment 3, 1 Royal Quay
Mr Paul Ernest McCormick,	Apartment 4, 1 Royal Quay
Ms Amy Margarete Liddle,	Apartment 5, 1 Royal Quay
Mr Nigel Hamblett,	Apartment 6, 1 Royal Quay
Miss Josephine Oniyama & Mr Borri,	Apartment 7, 1 Royal Quay
Mr Adam & Mrs Frances Long,	Apartment 8, 1 Royal Quay
Mr Roy Cook and Ms Catherine Fitzpatrick	Apartment 9, 1 Royal Quay
Dr Tamseel Haque,	Apartment 10, 1 Royal Quay
Mr A Manning & Mr Christopher Manning	Apartment 11, 1 Royal Quay
Mr John Paul Corr,	Apartment 12, 1 Royal Quay
Mr Alan Dumbell,	Apartment 14, 1 Royal Quay
Ms Margaret Aslet & Mr David R Maloney,	Apartment 15, 1 Royal Quay
Mr Paul Larkin,	Apartment 16, 1 Royal Quay
Ms Helen Austin & Mr Gary Austin,	Apartment 17, 1 Royal Quay
Mr Alan Dumbell,	Apartment 18, 1 Royal Quay
Mr Steven Anderson,	Apartment 19, 1 Royal Quay
Mr & Mrs Cuthbertson,	Apartment 20, 1 Royal Quay
Mr Stephen J Bagnall & Mrs Susan Bagnall,	Apartment 21, 1 Royal Quay
Mr Joshua Simeon Ormston,	Apartment 22, 1 Royal Quay
Mr David Forsyth,	Apartment 23, 1 Royal Quay
Mr Christopher John Clarke,	Apartment 24, 1 Royal Quay
S&L Properties,	Apartment 25, 1 Royal Quay
Stephen Hancock & Linda Ann Hancock,	Apartment 26, 1 Royal Quay
Mr Colin & Mrs Elizabeth Anderson,	Apartment 27, 1 Royal Quay
Kawn Shui Yeung,	Apartment 28, 1 Royal Quay
Mr Craig Stuart Clark,	Apartment 29, 2 Royal Quay
Mr Roy Lawton & Mrs Christine Lawton,	Apartment 30, 2 Royal Quay
Mr Chris Parle,	Apartment 31, 2 Royal Quay
Mr Richard J Hammond,	Apartment 32, 2 Royal Quay
Mr & Mrs Bojarski,	Apartment 33, 2 Royal Quay
Ms Lisa Jayne Halliday,	Apartment 34, 2 Royal Quay
Mr & Mrs Pravin & Mr Rimika Char,	Apartment 35, 2 Royal Quay
Mr Hansen,	Apartment 36, 2 Royal Quay
Mr Waleed Khalid Askar,	Apartment 37, 2 Royal Quay
Mr David Sung,	Apartment 38, 2 Royal Quay
Mr Joel & Mrs Phillipa Roberts,	Apartment 39, 2 Royal Quay
Mr David Hearity,	Apartment 40, 2 Royal Quay
Allan Bellamy and Jane Scales,	Apartment 41, 2 Royal Quay
Mrs Carole Turner,	Apartment 42, 2 Royal Quay
Mr J C W Cole,	Apartment 43, 2 Royal Quay
Mr Richard Thompson,	Apartment 44, 2 Royal Quay
Dr F A A Majeed,	Apartment 45, 2 Royal Quay
Mr K N Mudragada and Mrs D Vejju,	Apartment 46, 2 Royal Quay
Mr Dale Allman,	Apartment 47, 2 Royal Quay
Mrs Davinder Kaur,	Apartment 48, 2 Royal Quay
Mr P R Boyham & Ms E L Hughes,	Apartment 49, 2 Royal Quay

Ms Loretta Williams,
Amanda K Anderson & Christopher J Clarke
Stephen Hancock & Linda Ann Hancock,
Base Estates Limited,
Ms Rose Modupe Moyinwin,
Sau Tung Lam,
Mr & Mrs Gerard Fryer,
Mr C D Johnson & Mr M A Ali,
Mr & Mrs MacDonald,
Minhaj Uddin Ahmed and Asma Akter,
Mr Connor Kennedy Dunn,
Mr Brian Douglas,
Mr & Mrs Gold,
Mr Christopher Richards,
Mr Matthew Maloney,
Dr Migos,
Ms Maria Antonia Justo,
Ms Silvia Aceto,
Ms Fawzia Said,
Mr Robert Wiecek,
Dr A Migos and Mrs P Migos,
Mr O W Harman and Ms S C Hobson,
Ms Beverly Hazel Tammy Anderson-D'Cruz
Mr Ronald Basnett,
Mr David Rowland,
Mr Om Prakash & Mr Manju Bansal,
Mr Howard Shimmin,
Mr K J Basnett,
Bleasdale Estates Ltd,
Ashwoods Properties Limited,
Ross Smith and Margaret Elizabeth Smith
Mr Keiumars Maleki,
Mr Brendan Walsh,
Miss Sarah Louise Shrimpton,
Ms Khatuna Dadiani-Taylor,
Mr Sean and Mrs Bernadette Flanagan,
Mr Ceyhun Sahin,
Mr Sean and Mrs Bernadette Flanagan,
Mr S Abbas & Mr Y S Abbas,
Dr Anuradha Bhadra,
Mr & Mrs Atkinson,
Mr Harry Taylor,
Arkham Estates Limited,
Ms Angelika Collins,
Ms Roisin McManus,
Mr Matthew David Callaghan,
Mr Anthony Packwood & Mrs Janet Packwood
Mr & Mrs Leichauer,
Mr Glen Ferrier,
Mr Neil Watson,
Marie Flanagan,
Apartment 50, 2 Royal Quay
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Mr Ian McGuinness,
Ms Caroline Anne Stephens,
Mr Prabhdeep Singh Bhatia,
Mr David Hearity,
Mr Brian Anderson,
Ms Violeta Razanskaite,
Professor Dinah Birch,
Ms Hannah Meg Corbett,
Ms Carol Highfield,
Mr Gareth Jones,
Dr S A Quah & Dr S Cazabon,
Mr L Y U Abdulla,
Ms Lisa Jane Halliday,
Wise Labs Limited,
N Master & A M V Maljee & B Saudinow,
Mr D Ferguson,
Mrs Lola S Fraser,
Dr Enas Al Alawi,
Ms Ljudmilla Wilson,
Mr Bill Edgar,
Mr V K Mehra,
Miss K Hawkins,
Bernard and Julie Ida Dimeck,
Ms Andrea Connolly,
Kinda Alameh,
Mr James Paul Hylton,
Mr A & Rev J Collier,
Dr S Cazabon,
Mr & Mrs Robinson,
Ms Lisa Medi Williams,
Mr Wayne Francis,
Mr Yaron Kingsley & Mrs Lynne Kingsley
Mr Mark P Crawford,
Mr John O'Hara,
Mr David Zahedi,
Dr Behzad Eftekhari,
Mr A J Bostrom,
Mr J Hawley & Miss A A Wejer,
Mr J Ashford & Mrs J Reilly,
Ms Rose Modupe Moyinwin,
Mr & Mrs R Waters,
Mr S Abrams,
Ms Karen Greenwood,
Mr & Mrs Hughes,
Caroline Elizabeth Essex,
Ms Elaine McElwee,
Mr William & Mrs Susan Campbell,
Sugarcube Properties Limited,
Mr David J Plant,
Carole and Cyril Obinna Uzoma,
Ms Suzanne Duke,
Apartment 194, 7 Royal Quay
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Reticent Holdings Limited,
Mr Alan Binks,
Mr Edward George Bucknall,
Ms Izabela Golbaz,
Mr & Mrs D M Jones,
Ms Rose Moyinwin,
Mr Eamonn Slevin,
Mr G W Williams,
Mr Ka Keung Chung & Ms Monita Ying Lee
Mr & Mrs I W Shields,
Mr & Mrs Chorley,
Mr Allan William Ion,
Mr Alan Moat,
Mr & Mrs I W Shields,
Mr Thomas Darling,
Mr Gareth and Mrs Jennifer Hope,
Mrs Alexandra Wainwright,
Stephen Hancock & Linda Hancock,
Mr & Mrs P Osborn,
Mr John M Lomas & Ms Maureen Brown
Mr Michael G Raynor,
Mr & Mrs D J Howell,
Mr & Mrs M J Wager,
Mr & Mrs Gaillard,
Mr B Bentham & Ms A Patel,
Mr Liam Delaney,
Mrs Bik Wah Linda Mok,
Mr B Pickstock,
Ms Lara Bunni,
Mrs Lucy Martin,
M & MA Services Limited,
Mr John Spence,
Mr Sean & Mrs Bernadette Flanagan,
Mr Paul A Jones,
Dr Nancy Yadava,
Ms Gemma S Gregson,
Mr Nicholas Wheeler,
Mr Andrew McLoughlin,
Mr Sean Flanagan,
Mr Edward William & Mrs Lai Wa Parker
Mr D E Holmes,
Mr Nicholas M Small,
Mr Niral Patel,
Mrs K Dadiani-Taylor & Mr Luka Dadiani
Palatine B&B Hotel Ltd,
Mr David J Plant,
Miss K Hawkins,
Dr Pathak & Mr Pathak,
Mr A Hosie & Mrs E Richardson,
Stephen Hancock & Linda Ann Hancock,

Apartment 126, 5 Royal Quay
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