



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

**Case Reference** : **MAN/00BY/LDC/2022/0064**

**Properties** : **415 units at City Quay, Ellerman Road,  
Liverpool, L3 4FD**

**Applicant** : **City Quay Management (2001)  
Company Limited**

**Representative** : **Cullimore Dutton Solicitors**

**Respondents** : **The residential leaseholders of the  
Properties (see Annex)**

**Type of Application** : **Landlord and Tenant Act 1985  
- section 20ZA**

**Tribunal Members** : **Judge J Holbrook**

**Date and venue of  
Hearing** : **Determined without a hearing**

**Date of Decision** : **26 July 2023**

**DECISION**

## DECISION

**Compliance with the consultation requirements of section 20 of the Landlord and Tenant Act 1985 is dispensed with in relation to works comprising the construction of a building on site to provide a suitable and permanent base for contractors and/or employees of City Quay which includes recreational space, a kitchen, washing facilities and storage.**

## REASONS

### Background

1. On 22 December 2022, an application was made to the First-tier Tribunal (Property Chamber) (“the Tribunal”) under section 20ZA of the Landlord and Tenant Act 1985 (“the Act”) for a determination to dispense with the consultation requirements of section 20 of the Act. Those requirements (“the consultation requirements”) are set out in the Service Charges (Consultation Requirements) (England) Regulations 2003 (“the Regulations”).
2. The application was made by City Quay Management (2001) Company Limited and relates to premises known as City Quay, Ellerman Road, Liverpool, L3 4FD (“the Properties”). The Applicant is the management company for the Properties. The Respondents to the application are the long leaseholders of the 415 units. A list of the Respondents is set out in the Annex hereto.
3. The only issue for the Tribunal to determine is whether or not it is reasonable to dispense with the consultation requirements.
4. The works in respect of which dispensation is sought concern the following works to construct a building to provide a suitable and permanent base for contractors and/or employees of City Quay at the site of the Properties:
  - a. Provision of site security/fencing.
  - b. Carrying out of generic and dynamic risk assessments, provision of documents, insurance cover and health and safety documentation to City Quay.
  - c. Provision or installation and removal of scaffolding.
  - d. Installation of new drains to meet existing drainage system.
  - e. Excavation of site to prepare for f strip foundations and pour concrete foundations.
  - f. Installation of an insulated concrete slab with a 70mm screed finish.
  - g. Building of shell walls using internal block work and external brickwork to match existing surrounding buildings.

- h. Provision of wooden roof trusses with flat plain concrete roof tile including all plastic soffits/fascia/rainwater goods.
  - i. Provision of insulation within the roof space.
  - j. Provision of Upvc Windows and doors.
  - k. Provision of timber stud walls
  - l. Completion of all plastering.
  - m. Provision of all electrical wires, installations, plugs and sockets, plus associated connections.
  - n. Carrying out of all plumbing requirements, including the provision of pipes, connections, new bathroom/toilets and shower.
  - o. Carrying out of tiling to the shower cubicle and above the hand basin in the toilet using a plain white tile.
  - p. Provision of the second fix joinery throughout the building, supplying and fitting kitchen units, architraves, skirting boards and doors.
  - q. Carry out all panting throughout the new building.
  - r. Provision of all flooring coverings, including provision and fitting of carpets and vinyl flooring.
5. Each of the Respondents have been given notice of the application and have been sent a copy of the Applicant's supporting evidence. They have also been provided with a copy of the case management directions issued by the Tribunal on 28 April 2023. The directions required any Respondent who opposed the application to notify the Tribunal of their objection within 21 days of receipt of the Applicant's bundle of documents. Ten Respondents have raised queries with the Applicant surrounding the works in response, however no objections to the application have been received.
6. I have determined this matter following a consideration of the Applicant's case, but without holding a hearing. Rule 31 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 permits a case to be dealt with in this manner provided that the parties give their consent (or do not object when a paper determination is proposed). In this case, the Applicant has given its consent and the Respondents have not objected. Moreover, having reviewed the case papers, I am satisfied that this matter is indeed suitable to be determined without a hearing: although the Respondents are not legally represented, the application is unopposed and the issues to be decided are readily apparent.
6. The Tribunal did not inspect the site of the Properties, but I understand there to be 13 separate purpose-built blocks with an average of 20-30 units save for CQ6 which contains 66 units.

### **Grounds for the application**

7. The Tribunal is advised that the Applicant is required to build permanent facilities for full time contractors, employed by City Quay, to utilise as an office whilst managing and carrying out maintenance and work required at the site. Notably, works potentially required to the

building following a fire risk assessment. The Applicant's case is that they have applied to the Tribunal for dispensation of the consultation requirements due to the risk of prejudice to the leaseholders if works did not progress urgently. The Applicant was unable to obtain a quote from more than one contractor who could undertake the necessary work in 2022 to ensure that they did not breach their obligations to the full-time staff. The Applicant highlights that the quote from the contractor REN Building and Maintenance Limited was competitively priced, however it was only available to accept for a short window. According to the Applicant, the cost benefitted all leaseholders and would not cause any financial detriment to them, which are two factors that were considered at a board meeting when deciding to initiate the works without adhering to the consultation requirements. The works have therefore already commenced. The Applicant states that they intend to pay for the works using money from reserves, as agreed in the AGM in 2021, which is the most cost-effective way to proceed. Consequently, the leaseholders shall not be asked to financially contribute further to fund the works costing £114,000 plus VAT.

8. The Applicant submits that if a consultation was conducted, the contractors would not honour their original quote and therefore there could have been additional costs and potentially no contractor to carry out the urgent works.

## **Law**

9. Section 18 of the Act defines what is meant by "service charge". It also defines the expression "relevant costs" as:

*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.*

10. Section 19 of the Act limits the amount of any relevant costs which may be included in a service charge to costs which are reasonably incurred, and section 20(1) provides:

*Where this section applies to any qualifying works ... the relevant contributions of tenants are limited ... unless the consultation requirements have been either–*

- (a) complied with in relation to the works ... or*
- (b) dispensed with in relation to the works ... by the appropriate tribunal.*

11. "Qualifying works" for this purpose are works on a building or any other premises (section 20ZA(2) of the Act), and section 20 applies to qualifying works if relevant costs incurred on carrying out the works exceed an amount which results in the relevant contribution of any tenant being more than £250.00 (section 20(3) of the Act and regulation 6 of the Regulations).

12. Section 20ZA(1) of the Act provides:

*Where an application is made to the appropriate tribunal for a determination to dispense with all or any of the consultation requirements in relation to any qualifying works ... the tribunal may make the determination if satisfied that it is reasonable to dispense with the requirements.*

13. Reference should be made to the Regulations themselves for full details of the applicable consultation requirements. In outline, however, they require a landlord (or management company) to:

- give written notice of its intention to carry out qualifying works, inviting leaseholders to make observations and to nominate contractors from whom an estimate for carrying out the works should be sought;
- obtain estimates for carrying out the works, and supply leaseholders with a statement setting out, as regards at least two of those estimates, the amount specified as the estimated cost of the proposed works, together with a summary of any initial observations made by leaseholders;
- make all the estimates available for inspection; invite leaseholders to make observations about them; and then to have regard to those observations;
- give written notice to the leaseholders within 21 days of entering into a contract for the works explaining why the contract was awarded to the preferred bidder if that is not the person who submitted the lowest estimate.

## **Conclusions**

14. The Tribunal must decide whether it was reasonable for the works to go ahead without the Applicant first complying with the consultation requirements. Those requirements are intended to ensure a degree of transparency and accountability when a landlord (or management company) decides to undertake qualifying works – the requirements ensure that leaseholders have the opportunity to know about, and to comment on, decisions about major works before those decisions are taken. They also ensure that leaseholders are protected from paying for inappropriate work, or from paying more than would be appropriate for necessary work. It is reasonable that the consultation requirements should be complied with unless there are good reasons for dispensing with all or any of them on the facts of a particular case.
15. It follows that, for it to be appropriate to retrospectively dispense with the consultation requirements, there needs to be a good reason why the works could not be delayed until the requirements had been complied

with. The Tribunal must weigh the balance of prejudice between, on the one hand, the need for swift action and, on the other hand, the legitimate interests of the leaseholders in being properly consulted before major works begin. It must consider whether this balance favours allowing the works to be undertaken immediately (without consultation), or whether it favours prior consultation in the usual way (with the inevitable delay in carrying out the works which that will require). The balance is likely to be tipped in favour of dispensation in a case in which there is an urgent need for remedial or preventative action, or where all the leaseholders consent to the grant of a dispensation.

16. In the present case, it is clear that the works concerned should have been undertaken as soon as possible, not only to provide suitable facilities on site for full time staff to allow them to complete maintenance and remedial works to the Properties, but also to ensure that the most competitive price available at the time could be achieved. While the statutory consultation requirements have not been complied with, the Respondents have previously been informed about the proposed works and given the opportunity to raise questions. In reaching my decision, I have had regard to the fact that no objections were raised by the Respondents when provided with the opportunity to do so. There is no evidence that the Respondents have been, or would be, prejudiced by the lack of compliance with the consultation requirements. I therefore conclude that unconditional retrospective dispensation should be granted.
17. Nevertheless, the fact that the Tribunal has granted retrospective dispensation from the consultation requirements should not be taken as an indication that I consider that the amount of money deducted from the reserve fund as a result of the works is likely to be reasonable or, indeed, that such charges should be payable by the Respondents. I make no findings in that regard.

Signed: J Holbrook  
Judge of the First-tier Tribunal  
Date: 26 July 2023

**ANNEX**  
**(List of Respondents)**

Mr Richard M Langley	Mr C K Patel
Mr Lee D Harten	Mr Jack Murray
Ms Sarah J Allen	Miss S W Cheung
Mr & Ms Richard Ward	Mr Jaques Loguellou
Mrs P Yadav	Mr & Miss Errol & Kim Buckeridge & Booty
Mrs Pauline Kean	Mr Peter Vickers
Mr Phillip Levenson & Miss E J Fitzsimons	Mrs Julie Wright
Mr David Taylor	Mr W Akinrinola
Miss Nicola Dunne	Mr & Mrs Downes
Mr Stuart Gelling	Mr Vincent Ferguson
Thomas Latimer	Ms Aysha Salam
Mr Paul Baker	Ms Joanne Kershaw
Mr Derek Campbell	Mr A Rogan
Ms A Shewhorak & Ms K Parnell	BCP Beta 2 Ltd
Mr & Ms Jonothan & Maria Vaughan	Mr Stephen Crosby
& Raisey	Mr & Mrs D Vaja
Mr J McCafferty	Mr Samuel Ashoo
Ms Fabiha Zaman	Mr & Mrs R Irving
Miss F Wilson	Mr Michael Binks
Miss T A Greenall	Mr Ryan Macauley
Ms Stephanie Jane Palmer	Dr & Mrs M Alexander
Mr Terence Anthony Clarke	Mr Candlin
Mr T Radia	Katherine Bishop Hunt
Dr S R Gutha	Agata Jedrzejewska
Ms Karen Bradbury	Mr William Martin
Mrs Pia Clay	Ms L M Howard
Florin Ciurariu	Mr & Mrs Birchall
Mr John K Birchall	Mr David John O'Malley
Mr Ian Carter	Laura Mary Perry
Mr & Mrs P J Marshall	Mr D Eccles
KADNC Wijekoon	Mrs Angela Carol Higham
Miss Niamh Whitehouse	Mr & Mrs F J Davis
Mr T J F Nixon	Mr P Ghosh
Mr Michael Burns	Ms Emma Caroline Pomford
Alin-Razvan Costache	Mrs Gemma Garwood
Mr Kim Cheung	Mr L D Mildener
Mr Keith Thomas Baines	Miss Carol Krenn
Mr & Mrs David & Rose Gale	Mr P R Trayler
Mrs J McDonough	Mr Mark Andrew Bamford
O Smith	Miss Caroline Hayword
Mr S K Kok	Michael Thomas Doyle
Ms S Subhani	Mr Yousif Haithem Sulaiman
Mrs Justine Clare	Mr Warren J Bradley
Mr Alan Quinn	Ms Michele Woodward
Ms J Tse	Mr Ian Christie
	Miss K Edwards

Ms L A King  
Mr A Tattershall  
Bik Wah Linda Mok  
Christopher James Lettings Ltd  
Mr Jamey Todd Smith  
Mr Nicholas Mather & Ms Claire  
Bannon  
Ms S McLaughlin  
Hind Ahmed  
Mr A Dumbell  
BCPBETA3  
Mr Jonathan Owen  
Mr A Hayes  
Katie Talbot  
Mr Aylen  
Mr G Smith  
Mr Terry Donnelly  
Mr Arthur Baas  
Mr R Patel  
Waterloo Dock Property LTD  
Ms Victoria Karkelanova  
Miss Chloe Jessica Booth  
Dr Christopher G Blanshard  
Mr David Sunderland  
Ms Louise Kissack  
Mr Zaid Esmail  
Mr Boleslaw Winiarski  
Mr J De La Rosa  
Dr S Jiwani  
Mr & Mrs K Burke  
Dr S Jiwani2  
Mr David Holdsworth & Mr Jamie  
Muirhead  
Michael Christopher Clark  
Miss Hannah McGloin  
Jonathan Philip Bate  
Yoni Vant Zand  
Miss Ramena Farahi  
Mr G J Jones  
Dr A M Arain  
Ms L Gimbert  
Ms J Paton  
Miss T Clucas  
Mr S Nuttall  
Miss Anna B Bridge  
Mr Gary Lyons  
Mr W Judge  
Mr Douglas James Grimshaw  
Mr Alan Atherton  
Mr Sam Mawdsley  
Mr & Mrs R Seth

Mr Philip Rooney  
Mr Davies & Miss Carver-  
McClintock  
Ms Stephanie Ioannidis  
Mr S J Hopkins  
Mr Yulun Wu  
Mr Paul & Vinod Tandon  
Ms Katie Stanton  
Mr Jason Taylor  
Mr Derek Campbell  
Mrs Lam  
Mr & Mrs F Andrade  
Ms Julie Warburton  
Ms Wendy Gilbert  
Mr J Donoghue  
Mr Geoff Williams  
Ms C M Wingate  
Miss L T Baker  
Miss Carol Metcalf  
Mr & Miss Edward and Charlotte  
Sands  
& Moran  
Mr S Rao  
Mr & Mrs D Grimes  
Ms P J Newey  
Mr D J P Higham  
Miss Katherine Maria Foster  
Mr M & I Ibrahim  
Mr Kazi Shahabuddin  
Miss Kelsie Williams  
Miss Julie Anne Featherstone  
Mr Christopher Jones  
Dr A K S Manoj  
Mr Neil Shaw  
Miss Penelope Jane Robshaw  
Mr Nicholas Bowley  
Mr & Mrs S Street  
Ms V A Williams  
Mr Ben Howen  
Mr Joel Berman  
Miss Jessica Small  
Mrs Sophia Wong Ching Hwai  
Ms M G P Raja  
Mr Brian Roche  
Mr & Mrs P T Whitty  
Mr A Starkey  
Mr P F Xavier  
Executors Mr P Lad (Deceased)  
Mr J L Cartwright  
Ms Y L Chan  
Mrs & Miss Prakash



Miss Joanne Hale  
Mr & Mrs A K Zubair  
Ms C & K Boyce  
Mr T Brady  
Dr A Nair  
Mr A J Larkin  
Dr & Mrs W J Jones  
Mr Gianfranco Boccuzzi  
Mr Levi Tsi Lung Cheung  
Salvesen Properties Ltd  
Mr Mike Readitt  
Mr & Mrs K Harris  
Mr & Mrs K S Ward  
Ms S L Snow  
Miss M Delargy  
Mr & Miss James & Pamela Heaps  
& Edwards  
Mr N R Howard  
Mr & Mrs A Jennings  
Mr J Laya Gomaez  
Messrs P & Y Spratt  
Miss L Wilcox  
Mrs S Passmore  
Ms N Gimson  
Mrs P A Steen  
Mr & Mrs Michael Hart  
Mr G O'Flanagan  
Mr & Mrs G J Brandwood  
Mr & Mrs David Higham  
Mr U Gupta  
Mr & Mrs Colin Deane  
Messrs Eswaran & Kandeewaran  
Hollie S Robb & Christopher P  
Mason  
Mr Geoff Williams  
Mr & Mrs Michael Hart  
Mr D Vaja  
Mr Richard Francis  
Ms Emma Wainright  
Mrs Denise Karen McEvoy  
Mr S O'Neill  
Ms Linda Adkins  
Ms Lorraine Romano  
Mr J Stone & Miss D J Rodaway  
Ms Anna Mary Dolby  
Miss Gemma Miller  
Mr & Mrs Bagnall  
Mr & Mrs G Deary  
Salvesen Properties Ltd  
Mr & Ms Greg & Joanna Martin &  
Cameron

Dr M Vilalta Escoda  
Miss F A Ashaye  
Ms W C Derbyshire (formerly  
Mitchell)  
Ms Julie Beach  
Mr B R Barlow  
Mr E E S Alsayagh  
Matthew Diable  
Miss Emma Kristina Crosby  
Ms L A Bagshaw  
Ms Jane Hayworth  
Miss Aimee Catherine Wright  
Mr & Mrs Hicks  
Mr & Mrs G T Lacy  
Ms Jane Hayworth  
Messrs P & M Johnson Treherne  
Mr G Evans  
Mr M J Riley  
Mr Peter Martin Beckett  
Mr & Mrs D Marrs  
Mrs Gail Jones  
Mr & Mrs K Neilson  
Mr B Higgins & Dr S Meah  
Ms A Faulkner  
Lombard Business Centre  
Mr Mathew Carmichael  
Mr P L McCormick  
Mr & Mrs P Siddle  
Mr T Winn Morgan  
Mr Nicholas Adrian Pitt  
Mr & Mrs Stringman  
Mr Phillip Jones  
Mr James Leonard  
Miss Rebecca Louise Bailey  
Mr N Holden  
Mr & Mrs Hasson  
Mr Alexander Joseph Scanlon  
Mr P J Husband  
Mr Daniel Ankrah  
Mr F Renshaw  
Sophie Pennington  
Mr O Parkhouse  
Mr Daniel Cabezas  
VP Ferguson Ltd  
Mr PeiYuan Jiang  
Mr A Mashood  
Ms Cheung  
Miss Hollie Washington  
Mr N Goldstone  
Mr K E Wood  
Ms Leanne Jones

Mr S Harding  
Mr V S Kwong Yip  
Ms S Thomas  
Ms Donna Maria Burke  
Mr William Range  
Miss T Barnes  
Mr & Mrs S Hothi  
Southernplus Ltd  
Mr P Marshall  
Reticent Holdings Ltd  
Mr & Mrs N Mitchell  
Mr Ben Stanley  
Mr C A Smith  
Mr C Barnes  
Mr & Mrs T Marshall  
Mr L Simpson  
Mr C G Goulding  
Mr & Mrs Y H Cheung  
Ms Jennifer Sandra Schmidt  
Southernplus Ltd  
Anvil Property Management  
Limited  
Mrs Carol Vassell  
Ms Eileen Jones  
Mr Scott Thomas Chorley  
Mr A Farrell  
Mr Chun Ting Lam  
Mr V Sood  
Mrs D Rubin  
Mrs Audrey McCurley  
Mr G Khanijau  
D Riach & R Anderson-Jones  
Miss J Wolfendale  
Dr John & Susan O'Malley  
Mr Shane Turner  
Mr Kevin James Foster  
Mr A Hunt  
Mr Kieran Swindells  
Mr A Komuravelli  
Mr Peter Simpson  
Mrs Wong  
Jan Souness  
Ms Sinead Burns (Was Magee)  
Mr A Sampat  
Mrs & Mrs B & J Dimeck  
Ms Diane Grant  
ICC Investments Ltd  
VP Ferguson Ltd  
Mr S Mitha  
Mr & Mrs A Shah  
Miss H Chandrashakar

Mr Gary King  
Ms Janet Bailey  
Ms Gillian Rose Gale  
Ms J Markham  
Mr & Mrs S Khatri  
Fan & Jing Zhang & Ma  
Mrs Dipa Navinchand Shah  
Mr & Mrs D Higham  
Mr & Mrs Sandeep & Kajal Shah  
Mr L Singh  
Mr B Savadia  
Mr Dipti Vinay Shah  
Mr & Mrs D Jones  
Mr Sam Gibson  
Mr David Branum  
Mr & Mrs D Evans  
Mr R Sandhu  
BCP Alpha 2 Ltd  
Mr B Goodyear  
Bronica Gumbhir  
Wai Ting Tse  
Mr & Mrs Neven & Nives Kasic  
Mr P Hayes  
Mr & Mrs J Stephens  
Mr R Pollard  
Mr M John  
Mrs H Pryce  
Mr Darik K L Leung  
Mr & Mrs J Earnshaw  
Mr A Mediratta  
Mr R Sandhu  
Mr A Rasaratnam  
Mr S Hegarty  
Mr Stanley Davies  
Mr N Nixey  
Mr Anthony Whittaker  
Mr Steven Cook  
Mr A Warren  
Mr Zubar Mohsan  
Mrs J Nixey  
Mr & Mrs P Bowery  
Mr & Mrs K Duncan  
Mr Eddie Tickle  
Mr David Bailey  
Mr Marc Stanton Bennett  
Mr & Mrs J Brennan  
Mr Paul Bagnall  
Mr K Nijjer  
Mr B Vidarsson  
Messrs Bray & Cassell  
Mr Singh

Mr C Skane Davis  
Dr Annette Graham  
Mr A Fradley  
Dr Morad Kamyab  
Mr Peter Bellamy  
Ms L Murrell  
Mr David Bailey  
Mr R Whitehouse  
Mr C Lakhanpal  
Miss Teresa Dennis  
Miss K Walsh  
Mr D S Dickenson  
Mr Graeme Jones

Mr C J Smith  
Mr Paul Moses  
Mr V Koowaroo  
Mr Hilel Anthony Alhanshali  
Mr Brian Riley  
Miss Alison Graham  
Mr J Vogler  
Dr Rieka Taghizadeh  
Mr C Cullen  
Mr P Kettle  
Mr J Hewitt  
Miss I Mateides & Nigel Andrew  
Fulcher