



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

**Case reference** : **MAN/00BN/LDC/2023/0003**

**Property** : **Express Networks 3, 6 Oldham Road,  
Manchester, M4 5DB (56 Apartments  
and 9 Commercial Units)**

**Applicant** : **Artisan Investments Group**

**Representative** : **Residential Management Group Ltd  
(RMG)**

**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 Hearing of  
Venue** : **Determined without a hearing**

**Date of decision** : **28 November 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 design, supply, installation and commission of the life safety system at the Property, notably the installation of a new fire alarm system.**

## REASONS

### Background

1. On 20 January 2023, 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 Artisan Investments Group Limited and relates to premises known as Express Networks 3, 6 Oldham Road, Manchester M4 5DB (“the Property”). The Applicant is the freeholder and landlord for the Property. The Respondents to the application are the long leaseholders of those units and apartments. 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 design, supply, installation and commission of the life safety system at the Property, notably the installation of a new fire alarm system.
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 18 May 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.
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.

7. The Tribunal did not inspect the site of the Property, but I understand it to be a seven-storey block at a height of 21 meters comprising of two buildings. The two buildings are constructed of a mix of steel and concrete frames with internal walls a mix of block, stud, and prefabricated partitions. The external walls are clad in a mix of rendered panelling, tile panels and metal panels with metal powder coated windows and doors. The floors are constructed of solid concrete at ground floor level, with both concrete beam and block and profile steel deck systems to upper floors. The roof is a considered to be a mix of concrete deck with an asphalt finish and profile steel sheet finish.

### **Grounds for the application**

8. The Applicant states that they appointed an independent surveyor to address their concerns and provide a greater understanding on how to remedy issues at the Property following government guidance regarding the use of cladding systems on buildings and compartmentation which requires a fire alarm to be implemented to ensure the safe evacuation of all occupants. The Applicant's case is that they considered the works completed to be necessary and urgent following a report produced by the surveyor. The Applicant advises that to achieve value for money and to test the market, they obtained three quotes for the required works before selecting to proceed with Syncro Limited due to their experience, skills and latest technologies. The Applicant highlights that while no formal consultation was undertaken, they issued a letter to the leaseholders on 20 March 2020 advising that Syncro Limited had been appointed and notifying leaseholders of the total costs for the works. In addition, it is submitted that multiple letters were issued to the leaseholders in respect of the works, providing updates of every step taken. According to the Applicant, upon completion of the works, an independent consultant has confirmed that the works were fit for purpose and adequate. It is averred that the leaseholders have not been prejudiced by the lack of the consultation process and the contractor appointed provided for costs that were fair, reasonable and cost effective, therefore it is reasonable to dispense with the consultation requirements.

### **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 reaching my decision, I have had regard to the fact that no objections were raised by the Respondents when provided with the opportunity to. While the statutory consultation requirements have not been complied with, the Respondents appear to have been notified of the works at multiple stages and given the opportunity to raise concerns or questions. I accept from the details provided that the works have been completed and were clearly urgent as they relate to the safety of the occupiers at the Property in the event of a fire and were necessary to bring the Property in line with government guidance. 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 the service charges resulting from the works is likely to be reasonable; or, indeed, that such charges will be payable by the Respondents. I make no findings in that regard.

Signed: J Holbrook  
Judge of the First-tier Tribunal  
Date: 28 November 2023

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

1. N & A Mepani
2. S Llhanie
3. Greyday LLP
4. Dilip & Indira Chandarana
5. N & A Mepani
6. Mr Niall Hurley
7. N & A Mepani
8. Mr A & Mrs R Sodha
9. Mr Hernan Troitino
10. Mr Vinay Sanghani
11. M & M Bhatti
12. Mr Reuben Malcolm & Ms Marianna Tribelli
13. Mr Maqbool Bhatti
14. Mr Bodley & Miss Halton
15. Greyday LLP
16. Ms Anna Sanders
17. Mr Thomas Goodyear
18. C & T Wilson
19. Bindu Sodha
20. Ms H Khambatta
21. Bhupendra Sodha & Nira Sodha
22. Ms Patricia Nana
23. H Yeung
24. The Estate of the Late H Yeung
25. Mr & Mrs Sundaralingam
26. Mr Michael Patrick & Ms Miriam Meade
27. Ms Miriam Meade
28. S Mann & A Dalton
29. Ms J Bancroft
30. Mrs Jacinta Wickham
31. Mr Michael Meade
32. Mr Joel Campbell
33. Mr Robert Cripps
34. Mr & Mrs N Yonan
35. Mr Joseph Gillibrand
36. Mr Simon Tate
37. Shepherd & West
38. Caddick Constr
39. Family Money Sv
40. Legal & Financial.
41. AIG Ltd
42. AGI Solicitors
43. Baywatch
44. Your Enterprise