

**In the First tier Tribunal
(Property Chamber)**



Case Reference : MAN/00BN/LDC/2024/0016

Property : The Box Works, 4 Worsley Street,
Manchester M15 4NU

Applicant : Boxworks Management Limited

**Applicant's
Representative** : Residential Management Group Limited

Respondent : The Residential Long Leaseholders (see
Annex)

Type of Application : Landlord & Tenant Act 1985 – Section
20ZA

Tribunal Members Mr John Murray LLB
Mr. John Faulkener FRICS
Mr. Richard Dobson Mason LLB

Date of Order : 14 February 2025

ORDER

DECISION

The Tribunal determines that dispensation from consultation for the works as detailed in the application be granted pursuant to s20ZA Landlord and Tenant Act 1985.

INTRODUCTION

1. An application was made by the Applicant Management Company for dispensation of the consultation requirements of s20 of the Landlord and Tenant Act 1985 and The Service Charges (Consultation Requirements) (England) Regulations 2003 ("the Consultation Requirements") relating to Qualifying Works to an external glazed window at the Box Works, 4 Worsley Street, Manchester M15 4NU ("the Property").
2. Directions were made by a Legal Officer of the Tribunal on the 25 November 2024. The Applicant was directed to send to the Tribunal, with a copy to each Respondent, a bundle of documents, consisting of a statement of case, correspondence sent to the leaseholders in relation to the works, detailed reasons for the urgency of the works and the consequences upon lessees of any delay; any quotes or estimates for the proposed works and relevant reports (including full details of attempts made by the Applicant to obtain quotes or estimates) and copies of any other documents the Applicant seeks to rely on in evidence.
3. Any Respondent who opposes the application was directed, within 14 days of receipt of the Applicant's bundle to send to the Applicant and to the Tribunal, any statement they wished to make in response to the Applicant's case.

THE PROPERTY

4. The Applicant described the Property as a 6 storey building comprising 82 apartments and 10 commercial units, constructed in or around 2005. The developer Urbansplash had converted an old warehouse (rear block) and added a new build extension (front block) at the time of conversion. The building is constructed from steel frame with glass and tile cladding. The internal structure is of steel beams in the front block and

concrete/brick walls with large areas of glazing in the rear block. Fenestration consists of full height glazing with aluminium sliding doors and casements. Internally, the communal areas consist of plastered and painted ceilings and walls with concrete carpeted floors to corridor and ceramic tiled floors to the entrance lobby and ground floor corridor.

5. The Applicant stated that the east façade of the building extends to 6 levels; there are 4 apartments situated upon each level. Apartments at level 1 to 4 have a continuous structural glazing as external wall finish and have access onto a shared balcony area that is enclosed with sliding glass panels. At level 5, the apartments are set back with access onto a balcony area and have 3 glazed patio doors presented as external wall finish. At level 6, the arrangement is similar to level 5, but the balcony areas are open. The commercial properties occupy street level areas.

THE MAJOR WORKS

6. The Applicant stated that the qualifying works relate to an external glazed wall to the east side of the building. That area of the building has suffered from water ingress, and it has appeared that the condition has deteriorated. It is noted that evidence of “flash band” and mastic repairs can be seen about this façade in numerous locations.
7. During April, the development was undergoing a cladding remediation with scaffolding erected along the full length of the building. The Applicant appointed Thomason to produce a comprehensive report on the damage and recommendations to remedy the area.
8. Recommended works included removal and replacement of the existing mastic seals, prime using Sika Aktivator- 205 and seal with Everbuild Tecnic Silicone 825 Mid Grey, removal of the existing “flash band” materials and replace with 100mm wide tape at a total cost of £33,192.13 including VAT.

THE LEGISLATION

The relevant legislation is contained in s20ZA Landlord and Tenant Act 1985 which reads as follows:

s20 ZA Consultation requirements: supplementary

(1) 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 or qualifying long term agreement, the tribunal may make the determination if satisfied that it is reasonable to dispense with the requirements.

(2) In section 20 and this section—

“qualifying works” means works on a building or any other premises, and

“qualifying long term agreement” means (subject to subsection (3)) an agreement entered into, by or on behalf of the landlord or a superior landlord, for a term of more than twelve months.

(3) The Secretary of State may by regulations provide that an agreement is not a qualifying long term agreement—

(a) if it is an agreement of a description prescribed by the regulations, or

(b) in any circumstances so prescribed.

(4) In section 20 and this section “the consultation requirements” means requirements prescribed by regulations made by the Secretary of State.

(5) Regulations under subsection (4) may in particular include provision requiring the landlord—

(a) to provide details of proposed works or agreements to tenants or the recognised tenants’ association representing them,

(b) to obtain estimates for proposed works or agreements,

(c) to invite tenants or the recognised tenants’ association to propose the names of persons from whom the landlord should try to obtain other estimates,

(d) to have regard to observations made by tenants or the recognised tenants’ association in relation to proposed works or agreements and estimates, and

(e) to give reasons in prescribed circumstances for carrying out works or entering into agreements.

(6) Regulations under section 20 or this section—

(a) may make provision generally or only in relation to specific cases, and

(b) may make different provision for different purposes.

(7) Regulations under section 20 or this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament

THE APPLICATION

9. No Leaseholders opposed the works.

10. The Applicant estimated that scaffolding would amount in the region of £70,000 to £100,000. The cost of scaffolding would not be charged to the Leaseholders, except for adjustments in reaching the actual damaged area and this is reflected in the total sum of the works, given that it was in place for the cladding works.

11. The Applicant appointed the same contractor remedying the cladding elements, 2nd Generation Facades. The works were overseen by Thomasons. That decision was evaluated against time and money.

12. The Applicant averred that they had acted within a reasonable scope for the avoidance of financial burden.

13. Several letters were sent to the leaseholders, (24 April, 23 May, 15 June and 21 July 2023) which alongside updates on the cladding works (funding for which was provided from the Government Building Remediation Fund), advised leaseholders of the need for the water penetration works, the costs of the works and the intention to apply for dispensation, and generally keeping them informed. The leaseholders were supplied with a copy of this Application.

14. The Applicant stated that their understanding of prejudice is that this would occur if the works resulted in an unreasonable financial cost to the leaseholder because the works:

(c) were unnecessary or inappropriate

(c) were carried out to an inappropriate standard

(c) resulted in an unreasonable amount of costs

15. The Applicant stated that the works were necessary and urgent, as recommended by Thomasons. They submitted that they conducted an equitable approach in appointing a contractor that was already on site, and that the leaseholders have not been prejudiced by the lack of consultation process.

16. It is held that there was not any prejudice.

17. The Applicant confirmed to the Tribunal on 19th December 2024 that no replies had been received in response to their bundle, which had been sent on the 18th November 2024.

THE DETERMINATION

18. The Tribunal has jurisdiction to dispense with consultation under Section 20ZA (1) which provides the Tribunal may do so “*if satisfied that it is reasonable to dispense with the requirements*”.

19. The only issue for the Tribunal to consider under section 20ZA is whether or not it is reasonable to dispense with the consultation requirements. The application does not concern the issue of whether any service charge costs resulting from the contracts are reasonable or indeed payable and it will be open to lessees to challenge any such costs charged by the Applicant under section 19 of the Act, if, for example they did not believe the Applicant was entitled to charge for utilities under the terms of their occupancy agreement.

20. This was confirmed by HHJ Huskinson in the Upper Tribunal who considered the jurisdiction for prospective dispensation under s20ZA in the case of **Auger v Camden LBC [2008]**. The Upper Tribunal confirmed that the Tribunal has broad judgment akin to a discretion in such cases. The dispensation should not however be vague and open ended. The exercise of discretion to grant dispensation requires the clearest of reasons explaining its exercise
21. Dispensation was considered in depth by the Supreme Court in **Daejan v Benson [2013] UKSC14** which concerned a retrospective application for dispensation. Lord Neuberger confirmed that the Tribunal has power to grant a dispensation on such terms as it thinks fit, providing that the terms are appropriate in their nature and effect.
22. At paragraph 56 Lord Neuberger said it was “clear” that a landlord may ask for dispensation in advance for example where works were urgent, or where it only becomes apparent that it was necessary to carry out some works whilst contractors were already on site carrying out other work. In such cases it would be “odd” if the (LVT) could not dispense with the Requirements on terms which required the Landlord, for instance (i) to convene a meeting of the tenants at short notice to explain and discuss the necessary works, or (ii) to comply with stage 1 and/or stage 3, but with (for example 5 days instead of 30 days for the tenant to reply.
23. Lord Neuberger also confirmed that conditions could be imposed as to costs, aside from the Tribunal’s general powers to award costs, (which at that time were limited), drawing a parallel to the Court’s practice to making the payment of costs a condition of relief from forfeiture.
24. The correct approach to prejudice to the tenants is to consider the extent that tenants would “relevantly” suffer if an unconditional dispensation was accorded. The Tribunal needs to construct what might happen if the consultation proceeded as required - for instance whether the works would have cost less, been carried out in a different way or indeed not been carried out at all, if the tenants (after all the payers) had the opportunity to make their points.
25. The Tribunal is satisfied that the works were urgent given the potential for damage to the Property, and were carried out expeditiously for the benefit of all leaseholders,

and making use of scaffolding that was already erected for cladding works, resulting in savings estimated by the Applicant to be between £70,000 and £100,000.

26. The request for dispensation was made sometime after the works were completed. No leaseholders submitted any reply form to the Tribunal, or sought to have any involvement in this application.

27. In all the circumstances, dispensation from consultation is granted.

28. This judgement does not address whether the costs are either payable, under the terms of the lease, or reasonable in terms of amount and quality of works, and any leaseholder who has concerns in any of those respects has a right to apply to the Tribunal pursuant to s27A Landlord and Tenant Act 1985.

Tribunal Judge J Murray LLB

14 February 2025

Annex A - Leaseholders

Apartment 101, The Box Works	Ms Kathryn Gates & Mr Thomas Stamp
Apartment 102, The Box Works	Mr Robert Morris
Apartment 103, The Box Works	Mr Harrison Chidlow & Miss Hannah Stedman
Apartment 104, The Box Works	Mr Matthew Oakes
Apartment 105, The Box Works	Mr Daniel & Mr David Johnson-Burrows
Apartment 106, The Box Works	Mrs G Jayaram
Apartment 107, The Box Works	Mr David Clough & Ms Isabella Todd
Apartment 108, The Box Works	Mr Paul Normandale
Apartment 109, The Box Works	Mr T Bloxham
Apartment 201, The Box Works	Mr James Parker
Apartment 202, The Box Works	Rajiv Darryl Sethi
Apartment 203, The Box Works	Mr Ben Wolstenholme
Apartment 204, The Box Works	Ms Maeve Hanley
Apartment 205, The Box Works	Mr P Langslow
Apartment 206, The Box Works	Mr A Constable
Apartment 207, The Box Works	Mr Samuel Turnock & Ms Emma Welsh
Apartment 208, The Box Works	Mr Anand Patel & Ms Lisa Mistry
Apartment 209, The Box Works	Mr Adam Falk & Ms Zosia Bredow
Apartment 210, The Box Works	Mr R Devlin
Apartment 211, The Box Works	Mr N Cornish
Apartment 212, The Box Works	Ms J Bobbett
Apartment 213, The Box Works	Mr Simon Lewis & Ms Sarah Jarvis

Apartment 214, The Box Works	Kevin Bolton Solicitors Ltd.
Apartment 215, The Box Works	Timber Wharf Mgmt Ltd.
Apartment 216, The Box Works	DHH Boxworks Manchester Ltd.
Apartment 217, The Box Works	Mr Anish Nambiar & Ms Margaret Jones
Apartment 301, The Box Works	Mr M Fitzgibbon
Apartment 302, The Box Works	Mrs J Dronsfield
Apartment 303, The Box Works	Edge Worldwide Logistics Ltd.
Apartment 304, The Box Works	Mr R Harrison
Apartment 305, The Box Works	Mr Matthew O'Driscoll
Apartment 306, The Box Works	Mr B Rustage
Apartment 307, The Box Works	Ms Phillipa Rustage
Apartment 308, The Box Works	Mr Stephen & Mrs Serena Fylan
Apartment 309, The Box Works	Mr J Godfrey
Apartment 310, The Box Works	Ms W Wright
Apartment 311, The Box Works	Mr Graham Allanson
Apartment 312, The Box Works	Mr Benjamin & Mrs Laura Schofield
Apartment 313, The Box Works	Mr P Taylor
Apartment 314, The Box Works	Mr S Norbury & Mr B Norbury
Apartment 315, The Box Works	Mr S Norbury & Mr B Norbury
Apartment 316, The Box Works	Mr Gary Ingle
Apartment 317, The Box Works	Mr O Gardner
Apartment 401, The Box Works	Fermi Ying Ngai Hon
Apartment 402, The Box Works	Mr Sehar Anwar

Apartment 403, The Box Works	Miss Clara Borg
Apartment 404, The Box Works	A Dickinson & A Ferguson
Apartment 405, The Box Works	Mr T Bloxham
Apartment 406, The Box Works	Mr Marc Withington
Apartment 407, The Box Works	Mr Georgie Mathers
Apartment 408, The Box Works	Mrs N Illing
Apartment 409, The Box Works	Sadiye Allsop & Birsal Kaplan
Apartment 410, The Box Works	Mr Matthew Hayes & Mr Robert Glover
Apartment 411, The Box Works	Mr S Ashurst & Miss L Ashurst
Apartment 412, The Box Works	Mr William Butterwick
Apartment 413, The Box Works	Dr Madeline Dodds
Apartment 414, The Box Works	Dr Emma Johnson
Apartment 415, The Box Works	Mr G Perkins
Apartment 416, The Box Works	Ms K Hutson
Apartment 417, The Box Works	Mika Kowalewicz
Apartment 501, The Box Works	Mr Robin Portner
Apartment 502, The Box Works	Mr Martin Nutter & Ms Anu Kumaresan
Apartment 503, The Box Works	Ms Zoe Bolton
Apartment 600, The Box Works	Mr T Bloxham
Apartment 506, The Box Works	Mr Daniel Wordsworth & Ms Carys Stockton
Apartment 507, The Box Works	Mr Craig Lucas
Apartment 508, The Box Works	Mr Patrick Doyle
Apartment 509, The Box Works	Mr Savlatore Plano

Apartment 510, The Box Works	Mr Marc Cox
Apartment 511, The Box Works	Ms Candice Heaney
Apartment 512, The Box Works	ANE Properties Ltd.
Apartment 601, The Box Works	Mr J & Mrs R Ruparelia
Apartment 602, The Box Works	Mr Simon Ng
Apartment 603, The Box Works	Mr T Bayne
Apartment 604, The Box Works	Mr Lee Connolly
Apartment 605, The Box Works	Mr M Wilson
Apartment 606, The Box Works	Mr Simon Jack & Ms Harriet Atkin
Apartment 607, The Box Works	Mr Gareth Friday
Apartment 608, The Box Works	Ms Lisa Ashurst
Apartment 609, The Box Works	Mr Earley & Miss Price-Salisbury
Apartment 610, The Box Works	Mr D Murphy
Apartment 611, The Box Works	Mr Brent Norbury