



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

<b>Case reference</b>	:	<b>LON/00AB/LDC/2022/0161</b>
<b>Properties</b>	:	<b>Various residential leasehold properties in the London Borough of Barking and Dagenham</b>
<b>Applicant</b>	:	<b>London Borough of Barking and Dagenham</b>
<b>Representative</b>	:	<b>Judge &amp; Priestley</b> Contact: Alexandra Jordan Email: <a href="mailto:moakley@judge-priestley.co.uk">moakley@judge-priestley.co.uk</a>
<b>Respondents</b>	:	<b>Long residential leaseholders in the Borough subject to communal electricity and gas supplies</b>
<b>Type of application</b>	:	<b>To dispense with the requirement to consult leaseholders about a long-term agreement for the supply of electricity to communal areas</b>
<b>Legal Officer</b>	:	<b>Nadine Sandford</b>
<b>Date of directions</b>	:	<b>6<sup>th</sup> October 2022</b>

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**DIRECTIONS ON AN APPLICATION UNDER SECTION 20ZA OF  
THE LANDLORD AND TENANT ACT 1985**

The parties may agree between themselves any reasonable change to the dates in these Directions EXCEPT for the date of sending the bundles and the hearing date/s.

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**Covid-19 Arrangements**

- For the tribunal's current procedures, please see the Guidance for Users at: <https://www.judiciary.uk/wp-content/uploads/2021/02/Guidance-for-Users-February-2021-final.pdf>

- Unless directed otherwise, all communications to the tribunal, including the filing of documents and bundles, should be by **email ONLY**, attaching a letter in Word format. Emails must be sent to [London.RAP@justice.gov.uk](mailto:London.RAP@justice.gov.uk). The attachment size limit is 36MB. If your attachments are larger than 36MB they must be split over several emails.
- **If a party does not have email, access to the Internet and/or cannot prepare digital documents, they should contact the case officer about alternative arrangements.**

### **Background to the Application**

- (A) The Applicant landlord seeks dispensation under section 20ZA of the Landlord and Tenant Act 1985 from all of the consultation requirements imposed on the landlord by section 20 of the 1985 Act<sup>1</sup>.
- (B) The Applicant proposes to enter into a new agreement for the supply of electricity to the landlord's lighting, communal areas, staircase lighting and lifts serving residential leaseholders in the Borough of Barking and Dagenham and gas to central boiler rooms on estates, communal block boilers and communal supplies serving residential leaseholders, as set out in the statement of case in the application.
- (C) The Applicant intends to procure the new contract making use of a framework established by the public sector central purchasing authority known as LASER. The benefit of using LASER is said to be that it allows the Borough to work collectively with others to buy energy on the wholesale market when market conditions are favourable, and to secure lower prices than the Borough could secure on its own.
- (D) The new contract will run from **01<sup>st</sup> October 2024**, after the current contract has expired on 30<sup>th</sup> September 2024. The Applicant seeks dispensation from all the consultation requirements under section 20 of the Landlord and Tenant Act 1985, on the basis that it will be able to take advantage of more competitive energy prices, if it entered into these agreements and, because of the volatile nature of energy procurement, it would not be able to obtain significant cost savings for the benefit of the leaseholders, if it were required to carry out the section 20 consultation process.

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<sup>1</sup> See the Service Charges (Consultation Requirements) (England) Regulations 2003 (SI 2003/1987)

- (E) In addition, the Applicant would be unable to provide estimated costs to leaseholders, as required under the Service Charges (Consultation) Regulations 2003, because the energy will be purchased as and when a competitive price is identified by LASER on the wholesale energy market.
- (F) The only issue for the tribunal is whether it is reasonable to dispense with the statutory consultation requirements. **This application does not concern the issue of whether any service charge costs will be reasonable or payable.**
- (G) The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 give guidance on how the application will be dealt with.

### **DIRECTIONS**

1. The Applicant landlord must by **27<sup>th</sup> October 2022**:
  - Write to each of the leaseholders and to any residential sub-lessee and to any recognised residents' association concerned by email, hand delivery or first-class post, setting out the following:
    - (a) Informing them of the application;
    - (b) Advising them that a copy of the application (with personal details deleted), statement of case, supporting documents and a copy of these directions will be available on the applicant's website, advising them of the URL address, and notifying them that any response to the application should be made by **17<sup>th</sup> November 2022** as outlined in the directions below;
    - (c) Informing the leaseholders that if they wish to receive a printed copy of the application and these directions they should write to the applicants, who will then send printed copies (again, with any personal details deleted);
    - (d) Advise the leaseholders that as the application progresses additional documents will be added to the website, including the final decision of the tribunal, stating clearly that the final decision is likely to be uploaded on or after **26<sup>th</sup> January 2023**.
  - Confirm to the tribunal by email that this has been done and stating the date(s) on which this was done.
2. Those leaseholders who oppose the application must by **17<sup>th</sup> November 2022**:
  - Complete the attached reply form and send it by email to the tribunal; and

- Send to the Applicant landlord, by email or by post, a statement in response to the application with a copy of the reply form. They should send with their statement copies of any documents upon which they wish to rely.
3. The Applicant landlord must by **8<sup>th</sup> December 2022**:
- Prepare a digital, indexed and paginated Adobe PDF bundle of all relevant documents for use in the determination of the application, containing all of the documents on which the Applicant landlord relies, including the application form, these and any subsequent directions, copies of any replies from the leaseholders and any relevant correspondence with the tribunal;
  - Upload a copy of the bundle to their website;
  - Write to each of the leaseholders who have sent a reply form to oppose the application, by email and/or post, providing them with a link to the uploaded bundle or, if they request one, a paper copy of the bundle;
  - Also send an email to the tribunal at [London.Rap@justice.gov.uk](mailto:London.Rap@justice.gov.uk) with a similar link to the uploaded bundle, that can be downloaded by the tribunal. The subject line of the email must read: "BUNDLE FOR PAPER DETERMINATION: [case reference number]".

### **Determination**

4. The tribunal will decide the application during the seven days commencing **23<sup>rd</sup> January 2023** based on the documents.
5. However, any party may request a hearing. Any such **request should be made by 15<sup>th</sup> December 2022**, giving an indication of any dates to avoid. The hearing will have a time estimate of two hours, but either party should notify the tribunal if that time estimate is insufficient.
6. If a hearing is requested:
- It shall take place on **a date to be confirmed as a face to face hearing, at 10 Alfred Place, London WC1E 7LR**, making use of the electronic documents received. The parties may if they wish (but are not obliged to) provide the tribunal and the other parties with a concise written summary of their case (referred to as a "skeleton argument") **three days** before the date of the listed hearing.
  - A party who is intending to rely upon oral witness evidence at a hearing must provide the witness with a copy of the hearing bundle for use at the hearing.
  - Parties may wish to print out a copy of the digital hearing bundle(s) for use at the hearing. The tribunal will be using the digital hearing bundles provided, unless it directs otherwise.

- Any party may request, from another party, a physical paper copy of a hearing bundle relied upon by that party (this must be provided, free of charge, within seven days of the request).
7. As the tribunal is working electronically during the current pandemic, the tribunal deciding this application will not have access to a physical file, nor electronic access to documents sent to the tribunal. It is therefore essential that the parties include any relevant correspondence to the tribunal within the digital bundle.
  8. The tribunal will send a copy of its eventual decision to the representative of every represented leaseholder and to any unrepresented leaseholders, who have completed and returned the reply form attached to these directions.
  9. Furthermore, the Applicant must either send a copy of the tribunal's decision and appeal rights to all leaseholders, or upload a copy of the tribunal's decision and appeal rights on their website, if they have one, or on a web-based document storage site **within 7 days of receipt** and shall maintain it there for at least 3 months, with a sufficiently prominent link to both on their home page, or (if longer) until the new contract is entered into.

### **Attached: Reply Form for Leaseholders**

#### **NOTES**

- a. **Whenever you send a letter or email to the tribunal you must also send a copy to the other parties (or, in the case of the applicant, post a copy on their website) and note this on the letter or email.**
- b. **Documents prepared for the tribunal should be easy to read. If possible, they should be typed and use a font-size of not less than 12.**
- c. **If the applicant fails to comply with these directions the tribunal may strike out all or part of their case pursuant to rule 9(3)(a) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 ("the 2013 Rules").**
- d. **If the respondent fails to comply with these directions the tribunal may bar them from taking any further part in all or part of these proceedings and may determine all issues against it pursuant to rules 9(7) and (8) of the 2013 Rules.**

### **Reply Form for Leaseholders**

<b>Case Reference:</b>	<b>LON/00AB/LDC/2022/0161</b>
<b>Property:</b>	<b>Various residential leasehold properties in the London Borough of Barking and Dagenham</b>

#### **ONLY COMPLETE AND RETURN THIS FORM IF YOU OBJECT TO THE APPLICATION**

If you do object please complete and return this form to:

The First-tier Tribunal Property Chamber (Residential Property) **by email** to:  
[London.RAP@justice.gov.uk](mailto:London.RAP@justice.gov.uk)

**And** send a copy to the landlord's representative, Alexandra Jordan

Address: Justin House, 6 West Street Bromley, BR1 1JN

Tel: 0208 290 7337

Email: [moakley@judge-priestley.co.uk](mailto:moakley@judge-priestley.co.uk)

	Yes	No
Have you sent a statement in response to the landlord?	<input type="checkbox"/>	<input type="checkbox"/>
Do you wish to request an oral hearing?	<input type="checkbox"/>	<input type="checkbox"/>
Name address of any spokesperson or representative appointed for the leaseholder:		

**Please also complete the details below:**

<b>Date:</b>	
<b>Signature:</b>	
<b>Print Name:</b>	
<b>Address of affected property:</b>	
<b>Your correspondence address (if different):</b>	
<b>Telephone:</b>	
<b>Email:</b>	