



HM Courts
& Tribunals
Service

**Property Chamber
London Residential Property
First-tier Tribunal**

10 Alfred Place, London, WC1E 7LR
Telephone: 020 7446 7700
Facsimile: 01264785060
E-mail: rplondon@hmcts.gsi.gov.uk
DX: 134205 Tottenham Court Road 2

Direct Line:

Mr Ben Benmore
Savills
(East Village Management Limited)
3rd Floor
33 Margaret Street
London
W1G 0JD

Your ref:
Our ref: LON/00BB/LDC/2019/0187

Date: 25 November 2019

Dear Mr Benmore,

RE: Landlord & Tenant Act 1985 - Section 20ZA)

PREMISES: Various Properties in East Village, London, E20 1DB

The Tribunal has made its determination in respect of the above applications and a copy of the document recording its decision is enclosed

The Applicant is to serve the decision on the leaseholders in accordance with direction 9(1) of Directions dated 25 November 2019.

Any application from a party for permission to appeal to the Upper Tribunal (Lands Chamber) must normally be made to the Tribunal within 28 days of the date of this letter. If the Tribunal refuses permission to appeal you have the right to seek permission from the Upper Tribunal (Lands Chamber) itself.

If you are considering appealing, you are advised to read the note attached to this letter.

Yours sincerely,

**Ms Sandra Strachan
Case Officer**

First-tier Tribunal, Property Chamber Residential Property

GUIDANCE ON APPEAL

- 1) An appeal to the Upper Tribunal against a decision of a First-tier Tribunal (Property Chamber) can be pursued only if **permission to appeal** has been given. Permission must initially be sought from the First-tier Tribunal. If you are refused permission to appeal by the First-tier Tribunal then you may go on to ask for permission from the Upper Tribunal (Lands Chamber).
- 2) An application to the First-Tier Tribunal for permission to appeal must be made **so that it is received by the Tribunal within 28 days after the date on which the Tribunal sends its reasons for the decision.**
- 3) If made after the 28 days, the application for permission may include a request for an extension of time with the reason why it was not made within time. Unless the application is made in time or within granted extended time, the tribunal must reject the application and refuse permission.
- 4) You must apply for the permission **in writing**, and you must:
 - identify the case by giving the address of the property concerned and the Tribunal's reference number;
 - give the name and address of the applicant and any representative;
 - give the name and address of every respondent and any representative
 - identify the decision or the part of the decision that you want to appeal;
 - state the grounds of appeal and state the result that you are seeking;
 - sign and date the application
 - send a copy of the application to the other party/parties and in the application record that this has been done

The tribunal may give permission on limited grounds.

- 5) When the tribunal receives the application for permission, the tribunal will first consider whether to review the decision. In doing so, it will take into account the overriding objective of dealing with cases fairly and justly; but it cannot review the decision unless it is satisfied that a ground of appeal is likely to be successful.
- 6) On a review the tribunal can
 - correct accidental errors in the decision or in a record of the decision;
 - amend the reasons given for the decision;
 - set aside and re-decide the decision or refer the matter to the Upper Tribunal;
 - decide to take no action in relation to the decision.

If it decides not to review the decision or, upon review, to take no action, the tribunal will then decide whether to give permission to appeal.

- 7) The Tribunal will give the parties written notification of its decision. **If permission to appeal to the Upper Tribunal (Lands Chamber) is granted**, the applicant's notice of intention to appeal must be sent to the registrar of the Upper Tribunal (Lands Chamber) so that it is received by the registrar within **28 days** of the date on which notice of the grant of permission was sent to the parties.
- 8) **If the application to the Property Chamber for permission to appeal is refused**, an application for permission to appeal may be made to the Upper Tribunal. An application to the Upper Tribunal (Lands Chamber) for permission must be made within **14 days** of the date on which you were sent the refusal of permission by the First-tier Tribunal.
- 9) The tribunal can **suspend the effect of its own decision**. If you want to apply for a stay of the implementation of the whole or part of a decision pending the outcome of an appeal, you must make the application for the stay at the same time as applying for permission to appeal and must include reasons for the stay. You must give notice of the application to stay to the other parties.

These notes are for guidance only. Full details of the relevant procedural provisions are mainly in:

- the Tribunals, Courts and Enforcement Act 2007;
- the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013;
- The Tribunal Procedure (Upper Tribunal)(Lands Chamber) Rules 2010.

You can get these from the Property Chamber or Lands Chamber web pages or from the Government's official website for legislation or you can buy them from HMSO.

The Upper Tribunal (Lands Chamber) may be contacted at:

*5th Floor, Rolls Building, 7 Rolls Buildings
Fetter Lane, London EC4A 1NL*

Tel: 0207 612 9710

Goldfax: 0870 761 7751

Email: lands@hmcts.gsi.gov.uk

The Upper Tribunal (Lands Chamber) form (T601 or T602), Explanatory leaflet and information regarding fees can be found on www.gov.uk/appeal-upper-tribunal-lands.



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

Case reference : **LON/00BB/LDC/2019/0187**

Property : **Various properties in East Village,
London E20**

Applicant : **East Village Management Limited**

Respondents : **The leaseholders of the Property as
per the application**

Type of application : **To dispense with the requirement
to consult leaseholders in relation
to a proposed qualifying long term
agreement**

Tribunal members : **Judge P Korn
Mr S Mason FRICS**

Date of decision : **25th November 2019**

DECISION

Decision of the tribunal

The tribunal dispenses with the consultation requirements in respect of the proposed qualifying long term agreement which is the subject of this application to the extent that they have not already been complied with.

The application

1. The Applicant seeks dispensation under section 20ZA of the Landlord and Tenant Act 1985 (“**the 1985 Act**”) from the consultation requirements imposed on the landlord or management company by section 20 of the 1985 Act in relation to a proposed qualifying long term agreement, to the extent that those requirements have not already been complied with.
2. The Property comprises various purpose-built apartment blocks arranged into plots in the London E20 postcode area. The Applicant is the entity responsible for providing management services to the Property in its capacity as party to an overriding lease.
3. The proposed qualifying long term agreement which is the subject of this application relates to the supply of electricity.

Paper determination

4. In its application the Applicant stated that it would be content with a paper determination if the tribunal considered it appropriate. In its directions the tribunal allocated the case to the paper track (i.e. without an oral hearing) but noted that any party had the right to request an oral hearing. No party has requested an oral hearing and therefore this matter is being dealt with on the papers alone.

Applicant’s case

5. The Applicant’s current contracts for the site-wide electricity supplies for running services with the estate and each block are for a 12 month period expiring on 30th November 2019. The Applicant now seeks potentially to enter into an agreement with an electricity supplier to be chosen once a full tender exercise has been carried out. That agreement will be a qualifying long term agreement if it is for a term of greater than 12 months, and the Applicant seeks dispensation from compliance (or full compliance) with the consultation requirements imposed by section 20 of the 1985 Act in the event that – once the tendering process has been gone through – a contract for a term of greater than 12 months presents the best value.
6. Based on indicative tender pricing and market review reports, the Applicant states that contract prices for periods greater than 12 months

are on average secured at lower rates. Indicative tender pricing obtained in July 2019 demonstrates that a saving of about 3% can be achieved if a 36 month contract rather than a 12 month contract is entered into. It is therefore in leaseholders' interests to be able to benefit from this. Due to the nature of the procurement method, in particular the same-day pricing and contract acceptance requirements imposed by the commodities market, it is not possible to follow the section 20 consultation procedure because the price received at the end of the purchasing window is the price that has to be paid. The market operates in such a way that bids are requested and contracts are signed within a 24 hour period, and due to pricing volatility suppliers are unwilling to extend this period. Therefore, the price achieved cannot be held for the period necessary to carry out consultation.

7. The Applicant's agents, Savills (UK) Limited, have written to leaseholders notifying them that it has made this application for dispensation and explaining why.

Responses from the Respondents

8. Savills have also provided a written statement which includes a statement of truth. They confirm in that statement that notice of the application has been sent to all leaseholders and that as at 10.19am on 18th November 2019 no responses or objections to the application have been received from any leaseholder.

The relevant legal provisions

9. Under Section 20(1) of the 1985 Act, in relation to any qualifying long term agreement "*the relevant contributions of tenants are limited ... unless the consultation requirements have been either (a) complied with in relation to the ... agreement or (b) dispensed with in relation to the ... agreement by ... the appropriate tribunal*".
10. Under Section 20ZA(1) of the 1985 Act "*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 long term agreement ..., the tribunal may make the determination if satisfied that it is reasonable to dispense with the requirements*".

Tribunal's decision

11. The tribunal notes the circumstances in which the application for dispensation has been made. Whilst it is unclear why the Applicant has left it so late to make the application, we are satisfied that because of the way in which the market operates it is not possible for the Applicant to go through a full consultation process whilst at the same

time securing a price which is only available within a short window of opportunity.

12. The Applicant's evidence, which has not been contradicted by any of the Respondents, is that having the flexibility to enter into contracts in the manner set out above has the potential to secure savings for leaseholders which would not otherwise be available. In addition, the Applicant has confirmed that it will still undertake a full tender exercise; it will just not be able to consult or liaise with leaseholders, save insofar as it has communicated with them so far.
13. None of the Respondents has raised any concerns with the tribunal nor opposed the application for dispensation. There is no evidence before us that leaseholders will be prejudiced by the lack of consultation, and indeed the Applicant's argument is that leaseholders will actually benefit from this approach.
14. On the basis of the potential benefits of the Applicant's approach and the lack of objections from the Respondents, we are satisfied in this case that it is reasonable to dispense with the formal consultation requirements in respect of the potential qualifying long term agreement which is the subject of this application to the extent that they have not already been complied with.
15. **For the avoidance of doubt, this determination is confined to the issue of consultation and does not constitute a decision on the reasonableness of the cost of the electricity to be supplied in due course.**

Cost applications

16. No cost applications have been made.

Name: Judge P Korn

Date: 25th November 2019

RIGHTS OF APPEAL

- A. If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber) a written application for permission must be made to the First-tier Tribunal at the regional office dealing with the case.
- B. The application for permission to appeal must arrive at the regional office within 28 days after the Tribunal sends written reasons for the decision to the person making the application.
- C. If the application is not made within the 28 day time limit, such application must include a request for extension of time and the reason for not complying with the 28 day time limit; the Tribunal will then look at such reason and decide whether to allow the application for permission to appeal to proceed despite not being within the time limit.
- D. The application for permission to appeal must identify the decision of the Tribunal to which it relates (i.e. give the date, the property and the case number), state the grounds of appeal, and state the result the party making the application is seeking.