



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

Case reference	:	LON/00AG/LDC/2019/0080
Applicant	:	London Borough of Camden (the Council)
Respondent	:	The leaseholders of London Borough of Camden
Property	:	Various properties with the Council area
Date of decision	:	24th July 2019
Tribunal Members	:	Tribunal Judge Dutton Mr T Sennett MA FCIEH

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

DECISION

The Tribunal orders that there be dispensation from the consultation requirements under s20 Landlord and Tenant Act 1985 (the Act) on the conditions set out below.

Background:

1. The application relates to the Council's intention to enter into contracts for the supply of electricity to blocks and estates and street properties for landlords' lighting, stair case lighting, lifts, estate lighting, boiler rooms and communal services such as door entry systems and fire alarms serving residential leasehold properties and set out in an appendix 1 to the Council's statement of case provided to us in advance of the hearing on 24th July 2019.
2. It is also the intention of the Council to enter into similar agreements relating to the supply of gas to the central boiler room on estates, communal block boilers and communal supplies on smaller blocks serving residential leasehold properties again as set out on an appendix 2 to the statement of case.
3. Since 2011 applications of this nature have been coming before this Tribunal. This present application relates to the Council's wish to procure energy with a consortium of other public sector organisations through a central purchasing body, in this case LASER, a wholly owned subsidiary of Kent County Council.

4. There is an existing agreement for the consortium which will end in September 2020 and dispensation is required now to put in place, in a timely fashion, buying arrangements going forward for 4 1/2 years to April 2025. It is the Council's intention to sign up to the new supply arrangement in September 2019 to enable forward purchasing in the run up to the new supply period.
5. The statement of case sets out in detail the Framework agreement broken down into three lots. We were told at the hearing that reference to a Fixed term fixed price contract for electricity would fall within lot 2.
6. We have noted all that is set out in the Council's statement of case, which we understand has been available to each leaseholder through the Council's web site.
7. We are aware that there have been responses to questions raised by a number of leaseholders, not all relevant to this application. We have seen what has been said. It is noted that only Mr Hart has filed a statement in response, which we have read. We are aware that a meeting took place between Mr Hart and Council representatives and were shown a copy of a letter dated 22nd July 2019 from Judge & Priestly, solicitors for the Council to Mr Hart indicating that agreement had been reached on a condition to be imposed in respect of the dispensation, if granted.
8. At the hearing we were told that the arrangements had been reviewed previously by the London Energy Project, an independent body originally set up by Haringay Council. They had confirmed that the arrangements provided value for money and that LASER provided a good service, it seems for some 160 local authorities, as well as the London Fire Brigade and the NHS. Apparently, Crown Commercial Services were also considered to fulfil the role of LASER but were unable to offer the services which satisfied the Council's requirements.
9. We were told that the proposed arrangements merely seek to continue the existing contractual arrangements which have been in place for a number of years. It was also confirmed that where possible the energy used will be ecological and "green" in nature.
10. The reasons for requesting dispensation are fully advanced in the statement of case and do not need to be repeated in this decision. Our only requirement is to determine whether it is appropriate to dispense with some of the consultation requirements.

FINDINGS

11. We are satisfied that for the Council to be able to enter into the framework agreement for the procurement of electricity and gas supplies it would not be possible to undertake the consultation requirements as provided for in the Service Charges (Consultation Requirements) (England) Regulations 2003, schedule 2. Notices of Intention have been served and copies were supplied to us. Accordingly, we find it is appropriate to dispense with the consultation requirements set out below.

12. The Council seeks and we agree that there should be dispensation from the following paragraphs under Schedule 2:
 - Paragraph 1(2)(d) removing the need to explain why the Council could not invite other nominations, the reason being that notices have already been issued by LASER and the Council will be relying on those.
 - Paragraphs 4(2); 4(4); 4(5); 4(6); 4(7) and 4(9).
13. The Council also sought to include the following conditions pursuant to the dispensation, which we are content to do.
 - The Council is to provide to the Respondents within 21 days of entering into a contract the following information:
 - The name of the energy supplier;
 - The date of the agreement;
 - The contract duration;
 - The date upon which the supply starts and
 - The date upon which the contract ends
 - Within two months of any request from a leaseholder, and after entering into a contract, the Council will make available for inspection by a leaseholder, information about the contract rates and price components and how these relate to supplies procured for all properties.
14. Our only requirement at this hearing was to consider whether or not it is reasonable to dispense with the statutory consultation requirements. Our decision does not affect any other rights that any leaseholder may have.
15. In accordance with the directions of the Tribunal dated 20th May 2019 the Council will upload a copy of this decision to its website within 7 days of it being sent to the Council

Tribunal Judge: Tribunal Judge Dutton

Date: 24th July 2019

Rights of appeal

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the tribunal is required to notify the parties about any right of appeal they may have.

If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber), then a written application for permission must be made to the First-tier Tribunal at the regional office which has been dealing with the case.

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.

If the application is not made within the 28 day time limit, such application must include a request for an extension of time and the reason for not complying with the 28 day time limit; the tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed, despite not being within the time limit.

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.

If the tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).