



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

Case Reference	:	LON/00AU/LDC/2019/0186
Property	:	All leasehold properties of the London Borough of Islington
Applicant	:	The Mayor and Burgesses of the London Borough of Islington and
Representative	:	Sachin Israni-Bhatia, Law and Governance Resources Directorate
Respondents	:	All residential long leaseholders of the London Borough of Islington
Representative	:	N/A
Types of Application	:	Dispensation – section 20ZA
Tribunal Members	:	Judge Tagliavini
Date and venue of (paper) hearing	:	13 December 2019 10 Alfred Place, London WC1E 7LR
Date of Decision	:	13 December 2019

DECISION

Decisions of the tribunal

I The tribunal grants the application to dispense with the section consultation provisions of the Landlord and Tenant Act 1985 in relation to the entering into of a qualifying long-term agreement (QLTA) for the flexible supply of gas and electricity on the open market for a four year period with effect from or about 1 April 2020.

The application

1. This is an application dated 28 October 2019 made under section 20ZA of the Landlord and Tenant Act 1985 (“the Act) in which the applicant seeks the tribunal’s dispensation from the consultation provisions required by section 20 of the 1985 Act. The applicants intend to enter into a long-term qualifying agreement (QLTA) with the winning suppliers to flexibly purchase gas and electricity on the open market and that is provided to all departments, (including public buildings, social services and schools) in addition to its housing stock borough wide. The application is considered to be necessary as it is anticipated that these costs are likely to exceed £100 in respect of some leaseholders.
2. In directions dated 31 October 2019 given by the tribunal the applicant was required to notify all the recognised residents’ associations concerned, both in writing and electronically of this application and to place all relevant documents on the appropriate website.

The Applicant’s evidence

3. The applicant provided the tribunal with a paginated and indexed file of documents in support of its application. This bundle included a Statement of Case dated 18 October 2018 in which it was stated that for the year 2017/18 the value of the electricity and gas contracts were £4.96 million and £3.12million respectively. The current contracts are due to end on 31 March 2020 and the applicant intends to enter into three new contracts for the supply of natural gas, large electricity sites and smaller electricity sites that are intended to start on 1 April 2020 and to run for four years. The applicant stated that these contracts will need to be entered into by December 2019 to allow flexible purchasing to the benefit of its leaseholders and necessitating this application to the tribunal for dispensation from the consultation requirements.
4. The applicant also drew the tribunal’s attention to its previous decisions; *LON/00AU/LDC/2006/0043*; *LON/00AU/LDC/2013/0067* and *LON/00AU/LDC/2015/0106* in which the tribunal had granted dispensation to the applicant, recognising the desirability of using flexible purchasing to obtain the best prices for gas and electricity supplies. The applicant also relied upon the decision in *Daejan Investments Ltd v Benson* [2013] UKSC 14 [2013] 1 W.L.R. 854 and submitted that there can be no prejudice caused to the leaseholders as the extent and quality of the gas and electricity supplies are unaffected

by the failure to consult and will not lead to an increase in cost, but is likely to lead to a greatly reduced cost to their advantage. The applicant stated that the contracts will be awarded after a European- wide tendering process and will keep leaseholders informed of the progress made on its Leasehold website page.

5. In support of its application, the applicant relied upon the witness statements of (i) Nicholas Eglinton, Procurement Senior Category Manager in Procurement Services of the London Borough of Islington (LBI) and dated 30 September 2019 and (ii) David Painter, Energy Management Officer in Energy Services of LBI dated 14 October 2019 and which exhibited the LBI Procurement Strategy for Gas and Electricity supply 2020 – 2024. The witness statement of Mr. Painter also provided the tribunal with evidence of the applicant’s compliance with the tribunal’s directions and a schedule of responses received from lessees in the period 17/04/2019 to 14/05/2019 in response to a letter (undated) sent to leaseholders by Home Ownership Services.

The Respondent’s evidence

6. No objection was received by the tribunal from any of the affected leaseholders and there was no request received from any of the parties for an oral hearing of the application.
7. The tribunal noted the 11 comments received by LBI in April/May 2019 from various leaseholders the majority of which stated that the proposed contracts did not affect them as they were not part of any communal areas or they did not receive any gas service. Only one lessee objected to LBI having any control over his/her choice of independent supplier.

The tribunal’s decisions and reasons

8. The tribunal is satisfied that the relevant residents associations and leaseholders have received notice of the applicant’s intentions to enter into the LTQA and of this application. In the absence of request for an oral hearing the tribunal considered it was reasonable and appropriate to determine this application on the documents provided.
9. In reaching its decision the tribunal considered the applicant’s evidence in support of the applicant and the previous decision of the tribunal that it relied upon. The tribunal also considered the absence of any or any substantive objections by any lessee or the identification of any prejudice caused to them due to the failure to consult. Therefore, in all the circumstances the tribunal considers it is appropriate to grant the dispensation sought by the applicant from the consultation requirements of section 20 of the 1985 Act.

Signed: Judge Tagliavini

Dated: 13 December 2019