



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

Case reference : **LON/00BG/LDC/2022/0144**

Applicant : **One Housing Group Limited**

Respondent : **The tenants of the Applicant subject to variable service charge provisions**

Property : **Various properties throughout London and the South East.**

Date of decision : **29 November 2022**

Tribunal Member : **Judge Dutton**

**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) for the reasons set out below

Background:

1. The application made on 11 August 2022 relates to the Applicant's wish to enter into Qualifying Long-Term Agreements (QLTA) for the supply of electricity and gas to its tenanted properties, the current arrangements for which expire in March 2023.
2. This application has been dealt with as a paper determination as provided for in the directions issued by the Tribunal dated 1 and 13 September 2022. Those directions clearly set out the background to the application which I do not to repeat here.
3. At the time of the determination, I had before me a bundle consisting of some 35 pages. This included the application, the directions, the statement of case, copies of letters sent to tenants both posted and included on the web site, the energy consultant's summary (Inspired Energy), frequently asked questions in respect of the s20 dispensation in this case and confirmation that no resident had responded. On this point concerns were raised by the Tribunal regarding

the dissemination of the application to tenants. By an email dated 8 November 2022 from Bhavini Curtis the supervising solicitor of the Applicants Legal Team these concerns appear to have been addressed.

4. The Statement of Case confirmed that the Applicant wishes to enter into a round of procurement and to conduct market analysis to determine the financial viability of entering into a new qualifying long-term agreement for the supply of gas to the applicants' communal areas in their managed blocks. The present arrangement ends in March 2023 and the Applicant wishes to enter into a new agreement before that one expires. Such agreement will be for 2/3 years. The intention is that any agreement entered into will enable the Applicant to move quickly, within hours, to obtain the best prices for gas and electricity in a currently volatile market. It is said that it would be impracticable and indeed impossible for the Applicant to comply with consultation requirements to achieve the savings it is said will flow.
5. The reasons for requesting dispensation are set out in the application and the short statement of case which I have set out above. **My only requirement is to determine whether it is appropriate to dispense with the consultation requirements.**

FINDINGS

6. I am satisfied that for the Applicant to be able to enter into a QLTA for the procurement of electricity and gas supplies that require it to move at short notice to secure the most viable costings, it would not be possible to undertake the consultation requirements as provided for in the Service Charges (Consultation Requirements) (England) Regulations 2003.
7. I have considered the Supreme Court Case of Daejan Investments Limited v Benson and other [2013] UKSC 14 and do not consider that there is any prejudice caused to the tenants, indeed, it seems to me that given the well documented evidence of volatility in the gas and electricity market and the somewhat generic market summary given by Inspired Energy, that these arrangements should save the tenants money. I therefore conclude that it is right to dispense with the consultation requirements.
8. My only requirement is to consider whether or not it is reasonable to dispense with the statutory consultation requirements. My decision does not affect any other rights that any tenant may have.
9. In accordance with the direction 8 of the Tribunal dated 13 September 2022 the Applicant will upload a copy of this decision to its website within 7 days of it being sent to the Applicant.

Tribunal Judge: Judge Dutton

Date: 29 November 2022

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).