



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

<b>Case reference</b>	:	<b>LON/00AU/LDC/2021/0209</b>
<b>Properties</b>	:	<b>Various residential leasehold properties belonging to Notting Hill Genesis</b>
<b>Applicant</b>	:	<b>Notting Hill Genesis</b>
<b>Representative</b>	:	<b>Devonshires Solicitors LLP</b>
<b>Respondents</b>	:	<b>Various leaseholders subject to 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>Tribunal</b>	:	<b>Nadine Sandford (Legal Officer)</b>
<b>Date of directions</b>	:	<b>11<sup>th</sup> October 2021</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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**IMPORTANT – COVID 19 ARRANGEMENTS**

- Due to the Covid-19 pandemic, the London Regional office at 10 Alfred Place is currently operating with a skeleton staff. Most judges and staff are working remotely. Where possible and appropriate, determinations are being made based on documents provided by parties in digital bundles. If a hearing is required, the tribunal will seek to accommodate this through the use of audio or video conferencing technology. While face-to-face hearings may be arranged in exceptional circumstances, these will be subject to necessary precautions to prevent the spread of infection.

- 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 access to the Internet and/or cannot prepare digital documents, they should contact the case officer about alternative arrangements.**
- Parties are notified that, due to the pandemic, it is likely to take longer than usual for the tribunal to respond to correspondence. Please do not chase for a response unless truly urgent.

### **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 with an energy broker and to use that broker to procure utility supply agreements to supply gas and/or electric across all of the properties within Notting Hill Genesis.
- (C) The proposed new contract will run from 1<sup>st</sup> April 2021, after the current contract has expired on 31<sup>st</sup> March 2021. The applicants seek dispensation from all the consultation requirements under section 20 of the Landlord and Tenant Act 1985, on the basis that they will be able to take advantage of more competitive energy prices, if they entered into these agreements and, because of the volatile nature of energy procurement, they would not be able to obtain significant cost savings for the benefit of the leaseholders, if they were required to carry out the section 20 consultation process.
- (D) 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.**
- (E) The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 give guidance on how the application will be dealt with.

### **DIRECTIONS**

1. The landlords must by **18<sup>th</sup> October 2021**

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

- 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 applicants' website, advising them of the URL address, and notifying them that any response to the application should be made by 29<sup>th</sup> October 2021;
    - (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 29<sup>th</sup> October 2021.
  - 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 **29<sup>th</sup> October 2021**:
- Complete the attached reply form and send it by email to the tribunal; and
  - Send to the landlords, 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 landlords must by **22<sup>nd</sup> November 2021**:
- 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 landlords rely, 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]”.
4. The tribunal will determine this application during the seven days commencing **6<sup>th</sup> December 2021** based on written representations.
  5. However, any party may make a request to the tribunal that a hearing should be held. Any such **request for a hearing should be made by 29<sup>th</sup> November 2021**, giving an indication of any dates to avoid. The tribunal will then notify the parties of the hearing date. The hearing will have a time estimate of two hours, but either party should notify the tribunal if that time estimate is insufficient. If a hearing is requested, it shall take place on **a date to be confirmed** by remote video conferencing making use of the electronic documents received.
  6. Full details of how to take part will be sent nearer the time. No specialist software will be needed to access the hearing. However, parties will need to have access to a computer, connected to the Internet, with a webcam and microphone, or a similarly enabled smartphone or tablet device. If a party does not have suitable equipment to attend a video conference, they must notify the tribunal promptly, and consideration will be given to converting the video hearing into an audio hearing, by way of telephone conferencing.
  7. As the tribunal is working electronically during the current pandemic, the tribunal determining 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 on dispensation 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 landlords shall place a copy of the tribunal’s eventual decision on dispensation together with an explanation of the leaseholders’ appeal rights on their website **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. In this way, leaseholders who have not returned the reply form may view the tribunal’s eventual decision on dispensation and their appeal rights on the applicant’s website.
  - 10.

**Attached: Reply Form for Leaseholders (to complete)**

**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/00AU/LDC/2021/0209</b>
<b>Property:</b>	<b>Various residential leasehold properties belonging to Notting Hill Genesis</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, **Neil Lawlor** from **Devonshires Solicitors LLP**  
30 Finsbury Circus, London EC2M 7DT  
(quoting ref: NML/NHH1/3004)  
or by email to: [Neil.lawlor@devonshires.co.uk](mailto:Neil.lawlor@devonshires.co.uk)

	Yes	No
Have you sent a statement in response to the landlord?	<input type="checkbox"/>	<input type="checkbox"/>
Do wish to attend 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>	