|  |  |  |
| --- | --- | --- |
|  |  | FIRST-TIER TRIBUNAL  **PROPERTY CHAMBER**  **(RESIDENTIAL PROPERTY)** |
| **Case reference** | **:** | **LON/00BE/LDC/2020/0067** |
| **Applicant** | **:** | **Clarion Housing Association Limited and Latimer Developments Limited** |
| **Representative** | **:** | **Anthony Collins Solicitors LLP**  (Ref: JDC/37418.0861)  (Email: jonathan.cox@anthonycollins.com) |
| **Respondents** | **:** | **33,463 households in various regions** |
| **Properties** | **:** | **Various properties in various locations owned and managed by Clarion Housing Association Limited or Latimer Developments Limited** |
| **Judge** | **:** | **Timothy Powell** |
| **Date of directions** | **:** | **10 June 2020** |

|  |
| --- |
| **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. |

**IMPORTANT – COVID 19 ARRANGEMENTS**

* Due to the Covid-19 pandemic the London Regional office of the tribunal at 10 Alfred Place is closed until further notice. Judges and staff are working remotely. Neither face-to-face hearings nor property inspections are taking place. 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.
* 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 and office closure, 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**

1. The applicant landlords, via their parent company Clarion Housing Group, want to enter into qualifying long-term agreements with energy suppliers, following recommendations by its energy broker, Inenco Group Limited, for the bulk purchase of gas and electricity during the period 1 April 2021 to 31 March 2024.
2. 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 tenants, if they were required to carry out the section 20 consultation process.
3. In addition, the applicants would be unable to provide estimated costs to tenants as required under the Service Charges (Consultation) Regulations 2003, because the energy will be purchased as and when a competitive price is identified by the brokers on the wholesale energy market.
4. For information, the applicants state that Inenco Group Limited acts for a number of housing associations and the applicants will be part of a £1/2 billion ‘pot’ that is enabling housing associations to get value for money on energy costs for their tenants.
5. 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**.
6. 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 **23 June 2020**:

* Write to each of the tenants concerned by email, hand delivery or first-class post, setting out the following:
  1. Informing them of the application;
  2. Advising them that a copy of the application (with personal details deleted) and a copy of these directions will be available on the applicant’s website, advising them of the URL address, and notifying them that any response to the application should be made by 17 July 2020;
  3. Informing the tenants that if they wish to receive a hard copy of the application and these directions they should write to the applicants, who will then send a copy (again, with any personal details deleted);
  4. Advise the tenants 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 1 September 2020.
* Confirm to the tribunal by email that this has been done and stating the date(s) on which this was done.

1. Those tenants who oppose the application must by **17 July 2020**:
   * + 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.
2. The landlords must **by 14 August** 2020:
   * + 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 tenants and any relevant correspondence with the tribunal;
     + Upload a copy of the bundle to their website;
     + Write to each of the tenants 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: LON/00BE/LDC/2020/0067”.
3. The tribunal will determine this application during the seven days commencing **31 August 2020** based on written representations.
4. 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 24 August 2020,** 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.
5. 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.
6. 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.
7. The tribunal will send a copy of its eventual decision on dispensation to the representative of every represented tenant and to any unrepresented tenants, who have completed and returned the reply form attached to these directions.
8. Furthermore, the applicant landlords shall place a copy of the tribunal’s eventual decision on dispensation together with an explanation of the tenants’ appeal rights on their website **within 7 days of receipt** and shall maintain it there for at least 7 months, with a sufficiently prominent link to both on their home page. In this way, tenants 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.

**Attached: Reply Form for Tenants/Leaseholders**

**NOTES**

1. **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 applicants, post a copy on their website) and note this on the letter or email.**
2. **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.**
3. **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”).**
4. **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 Tenants/Leaseholders**

|  |  |
| --- | --- |
| **Case Reference:** | **LON/00BE/LDC/2020/0067** |
| **Property:** | **Various properties in various locations owned and managed by Clarion Housing Association Limited and Latimer Developments Limited** |

**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, Anthony Collins Solicitors LLP, 134 Edmund Street, Birmingham B3 2ES (quoting ref: JDC/37418.0861) or by email to: [jonathan.cox@anthonycollins.com](mailto:jonathan.cox@anthonycollins.com) .

|  |  |  |
| --- | --- | --- |
|  | Yes | No |
| Have you sent a statement in response to the landlord? | □ | □ |
| Do wish to attend an oral hearing? | □ | □ |
| Name address of any spokesperson or representative appointed for the leaseholder: |  | |

**Please also complete the details below:**

|  |  |
| --- | --- |
| **Date:** |  |
| **Signature:** |  |
| **Print Name:** |  |
| **Address of affected property:** |  |
| **Your correspondence address (if different):** |  |
| **Telephone:** |  |
| **Email:** |  |