



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

**Case Reference** : **LON/00AG/LDC/2014/0083**

**Property** : **Flats 1-24 Bracknell Gate, Frogna  
Lane, London NW3 7EA**

**Applicant** : **Bracknell Gate Properties Limited**

**Representative** : **Michael Richards & Co**

**Respondents** : **The lessees listed in the schedule to  
the application**

**Representative** : **None**

**Type of Application** : **To dispense with consultation  
requirements under s.20ZA of the  
Landlord and Tenant Act 1985**

**Tribunal Judge** : **Ms N Hawkes**

**Date and Venue of  
Determination** : **27<sup>th</sup> August 2014, 10 Alfred Place,  
London WC1E 7LR**

**Date of Decision** : **27<sup>th</sup> August 2014**

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**DECISION**

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## **Background**

1. The applicant, Bracknell Gate Properties Limited, has applied to the Tribunal under S20ZA of the Landlord and Tenant Act 1985 (“the 1985 Act”) for dispensation from the consultation requirements contained in section 20 of the 1985 Act in respect of qualifying long term agreements for the provision of communal gas and electricity.
2. The Property is a purpose built block containing 24 flats. The application is dated 24<sup>th</sup> June 2014 and the respondent lessees are listed in the application.
3. Directions of the Tribunal were issued on 25<sup>th</sup> June 2014. The Tribunal did not consider that an inspection of the Property would be of assistance nor would it have been proportionate to the issues in dispute.

## **The applicant’s case**

4. The applicant is seeking dispensation from the section 20 consultation requirements in respect of two long-term qualifying agreements; one for the provision of communal gas and the other for the provision of communal electricity.
5. The applicant explains that it is not possible to put a value on the cost of the fuel, as this will depend upon the fuel consumption which is itself dependent on weather conditions and other factors. However, it has been estimated that the cost of gas will be approximately £30,000 per annum and that the cost of electricity will be approximately £4,500 per annum.
6. The applicant states in the application that because the fuel contracts are relatively large, a broker was used. Oroco was chosen to act as broker. The applicant asserts that there was insufficient time to consult the leaseholders before entering into the contracts because fuel prices are only held until 4 pm each day and that a quick decision therefore had to be made as to when and where to place the contract.
7. Annual contracts for the supply of gas and electricity had previously been entered into. However, following the receipt of advice from the broker, the applicant considered that the best available prices would be obtained by entering into a fixed rate five year contract.
8. The applicant states that the terms offered for a five year contract were highly competitive. The applicant anticipates that by placing the contract in this manner, there will be savings of approximately £20,000 per annum in respect of the provision of gas and a small, unquantified saving in respect of the provision of electricity. It appears from a copy of a letter

which was sent to the leaseholder that the charge for gas consumption in the year up to 24<sup>th</sup> June 2014 was £53,897.

9. Five year contracts for the provision of gas and electricity were entered into by the applicant on 1<sup>st</sup> August 2014. No consultation took place before the contracts were entered into. After the contracts had been entered into, the applicant wrote to the leaseholders informing them of the position and inviting comments. The applicant states that no comments were received.

### **The Respondents' case**

10. Signed forms have been received from the leaseholders of flats 2, 8, 16, 18, 21 and 22 supporting the application for dispensation. The leaseholders of flats 9 and 10 have completed signed forms stating that they do not support the application for dispensation but that no written representations will be sent to the Tribunal and that they agree that the Tribunal may decide the application without a hearing. The Tribunal has not received to the application from the other leaseholders.

### **The Tribunal's determination**

11. Section 20ZA of the 1985 Act provides that where an application is made to the Tribunal for a determination to dispense with all or any of the consultation requirements in relation to any qualifying long term agreement, the Tribunal may make the determination if satisfied that it is reasonable to dispense with the requirements. The consultation requirements are set out in the Service Charges (Consultation Requirements) (England) Regulations 2003.
12. Having considered (i) the application and the applicant's representations and evidence in support and (ii) the fact that none of the leaseholders has filed written submissions setting out any specific reasons for opposing the application, I determine, pursuant to section 20ZA of the Landlord and Tenant Act 1985, that it is reasonable to dispense with the statutory consultation requirements in respect of the qualifying long term agreements for the supply of gas and electricity which the applicant entered into on 1<sup>st</sup> August 2014.

**13. This decision does not concern the issue of whether any service charge costs will be reasonable or payable.**

Judge Naomi Hawkes

Date 27<sup>th</sup> August 2014