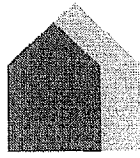


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Residential  
Property  
TRIBUNAL SERVICE

**RESIDENTIAL PROPERTY TRIBUNAL SERVICE  
DECISION  
OF THE LEASEHOLD VALUATION TRIBUNAL**

**Landlord and Tenant Act 1985 Section 20ZA**

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**LON/00BG/LDC/20010/0036**

**Premises:** Phoenix Heights, 4A Mastmaker Road London  
E14 9AW

**Applicant:** Ballymore Millharbour\_Ltd

**Respondent:** Various Lessees of Phoenix Heights

**Tribunal:** Helen Carr (Chairman)  
Bryan Collins

**Date of Application:** 30 March 2010

**Hearing Date:** Monday July 5<sup>th</sup> 2010

**Decision: The Tribunal determines to exercise its discretion to dispense with the consultation requirements contained in Part 2 of Schedule 4 to the Service Charges (Consultation Requirements) England) Regulations 2003.**

### **The Application**

1. The landlord of the premises has applied under section 20ZA for dispensation from the consultation requirements contained in Part 2 of Schedule 4 to the Service Charges (Consultation Requirements) England) Regulations 2003.

### **Procedural Background**

2. The Tribunal held a pre-trial review of this matter on 12<sup>th</sup> April 2010 and issued directions on the same date.
3. The Application relates to a qualifying long-term agreement for a utility (heat) supply with Barkantine Heat & Power Company Ltd (part of EDF) for a minimum period of 10 years. At the time of the application the agreement had yet to be entered into. However supply commenced on 1<sup>st</sup> December 2009 and the agreement will commence on that date as soon as it is signed.

### **Determination**

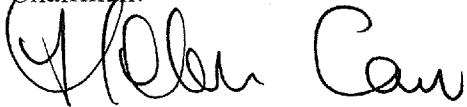
#### **The Evidence**

4. The documents provided to the Tribunal indicate as follows:
5. Phoenix Heights (the premises) is served by district heating. There is a Barkantine Heat & Power Company plant on the Isle of Dogs where they heat water for circulation and distribution of heat, through lagged pipes, to various developments in the area. The Barkantine pipes feed into a plant room within Phoenix Heights where the hot water passes by the heat exchanger, heating the water circulating around the pipes throughout the development which provides each apartment with heating and the heating of water.
6. Given the system is built into the development the Applicant has no alternative other than to use the Barkantine supply. It is important that the interests of the landlord and in turn the lessees are protected by entering into this contract.
7. The Qualifying Long Term Agreement is a utility (heat) supply with Barkantine Heat and Power Company Limited who will only agree to a 10 year period as a minimum.
8. No objections have been received from the lessees.

## The Law

9. The Tribunal is being asked to exercise its discretion under s.20ZA of the Act. The wording of s.20ZA is significant. Subs. (1) provides:
10. "Where an application is made to a leasehold valuation tribunal for a determination to dispense with all or any of the consultation requirements in relation to any qualifying works or qualifying long term agreement, the tribunal may make the determination if satisfied that it is reasonable to dispense with the requirements" (emphasis added).
11. In light of the evidence provided to the Tribunal by the applicant, and in the absence of any objections from the leaseholders, and the clear urgency of the matter the Tribunal determines to exercise its discretion to dispense with the consultation requirements contained in Part 2 of Schedule 4 to the Service Charges (Consultation Requirements) (England) Regulations 2003.

Chairman:



Helen Carr

Date 5<sup>th</sup> July 2010