

# LON/00AA/LDC/2005/0022

DECISION OF THE LEASEHOLD VALUATION TRIBUNAL  
ON AN APPLICATION UNDER SECTIONS 20ZA OF  
THE LANDLORD AND TENANT ACT 1985, AS AMENDED.

Address Middlesex Street Housing Estate & Barbican  
Residential Estate

Applicants: The Corporation of London

Respondents Middlesex Street Housing Estate & Barbican  
Residential Estate

The Tribunal Mr J C Sharma  
Mrs G Barrett

Hearing: 16<sup>th</sup> August 2005

Date of Decision 6<sup>th</sup> September 2005

**LEASEHOLD VALUATION TRIBUNAL for  
THE LONDON RENT ASSESSMENT PANEL**



**Residential  
Property**  
TRIBUNAL SERVICE

**APPLICATION UNDER SECTION 20ZA OF THE LANDLORD AND TENANT ACT  
1985**

**LON/00AA/LDC/2005/0022**

**Premises:** Leasehold dwellings in the Middlesex Street Housing Estate,  
London E1  
The Barbican Residential Estate, London EC2

**Applicant:** The Corporation of London

**Represented by:** Mr A Dymond (Counsel)  
Mr Howlett (Solicitors Department)  
Ms K Shaw (Energy Manager)  
Mr P Kennedy (Energy Manager)  
Ms A Mason (Service Charge Manager, Parbecan)

**Respondents:** Holders of long leases at various council dwellings at the  
"Premises" above

**Hearing:** 16 August 2005

**Tribunal:** Mr J C Sharma FRICS (Chairman)  
Mrs G Barrett

**Decision** (Given orally at end of hearing)

1. The Tribunal is satisfied that it is reasonable to dispense with all the statutory consultation requirements of Section 20 of the Landlord and Tenant Act 1985 in relation to the Corporation of the London proposed long term contracts for the supply of electricity for lighting, heating, ventilation, lifts and heating of common parts on the Middlesex Street, Housing Estate E1 and the Barbican Residential Estate, London EC2.

**Background**

2. There is an application for the dispensation of consultation requirements imposed by Section 20 of the Landlord and Tenant Act 1985 as amended by the Commonhold and Leasehold Reform Act 2002. The application dated 13 May 2005 was made by the Corporation of London. The Respondents are the Tenants of council dwellings situated in the Middlesex Street, Housing Estate and the Barbican Residential Estate.
3. Directions for hearing were given on 21 June 2005. All the Tenants likely to be affected by the application were notified of the hearing date. In the event, only Mr D Graves, Chairman of the Barbican Association, made written representations confirming that the Association does not oppose the application. None of the Tenants attended the hearing.

**The Law**

4. A “qualifying long term agreement” is, subject to certain exceptions, an agreement entered into, by or on behalf of the landlord .... for a term of more than 12 months.
5. Section 20 of the Act limits the contributions of tenants to qualifying long term agreements entered into by landlords, unless the consultation requirements have been either complied with, or dispensed with, by a Leasehold Valuation Tribunal. The detailed consultation requirements for qualifying long term

agreements which in this case require a public notice, are set out in Schedule 2 to the Service Charges (Consultation Requirements) (England) Regulations 2003 ("the Consultation Regulations"). These require a notice of intention, facility for inspection of documents, a duty to have regard to tenants' observations, followed by a detailed preparation of a landlord's proposal. The landlord's proposal, which should include the observations of tenants, and the amount of the estimated expenditure, then has to be given in writing to each tenant and to any recognised tenant's association. Again there is a duty to have regard to observations in relation to the proposal and the landlord must give its response to those observations and there may be a duty to supply supplementary information.

6. 20ZA of the Act allows a Leasehold Valuation Tribunal to make a determination to dispense with the consultation requirements if it is satisfied that it is reasonable.

### **The Application**

7. The Applicant said that the two current contracts for the supply of electricity on the Barbican and Middlesex Street Estates expire on 31 October 2005 and 31 March 2006. The proposed new contracts are regarded as long term agreements falling within the consultation requirements of Section 20 of the Act. OJEC notice required for such contracts were given on or about 13 March 2005. Out of a total of 2000 Tenants on the Barbican Estate 500 are likely to be affected in terms of financial contribution exceeding the prescribed sum of £100 for a qualifying long term agreement and out of 450 tenants on the Middlesex Street Estate only 30 are similarly affected.
8. The Corporation are Members of the Local Authorities South East Region Energy Buying Group known as "LASER". The group is managed by Kent County Council who represent Local Authorities and other public funded bodies throughout the South East. LASER contract on behalf of Local Authorities ensuring that suppliers in the market place are invited to make

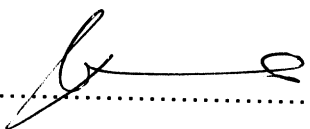
offers for the cost of the supply of electricity while adhering to European Directives, English Law and Local Government requirements.

9. Companies supplying electricity at the most competitive price are companies who are not required to hold their supply price open for an extended period. In order to obtain a competitive price the Corporation will be requesting through its membership of LASER for suppliers to hold the price open for acceptance for only a number of hours. It is not possible therefore if a truly competitive price is to be obtained to give long leaseholders the required 30 Day consultation period.
10. It is possible that the electricity suppliers will offer the supply for less than the two year period envisage by the Corporation. The contract may be for 12 months, 15/18 months depending on how bids are structured and the best prices available.
11. It is submitted therefore that it is reasonable to dispense with the consultation requirements contained in Section 20 of the Landlord and Tenant Act 1985 in relation to the proposed contracts to be entered into by the Corporation of London through its membership of LASER for the supply of electricity.
12. If dispensation is granted it will serve long leaseholders' interests because the lower price(s) will be obtained.

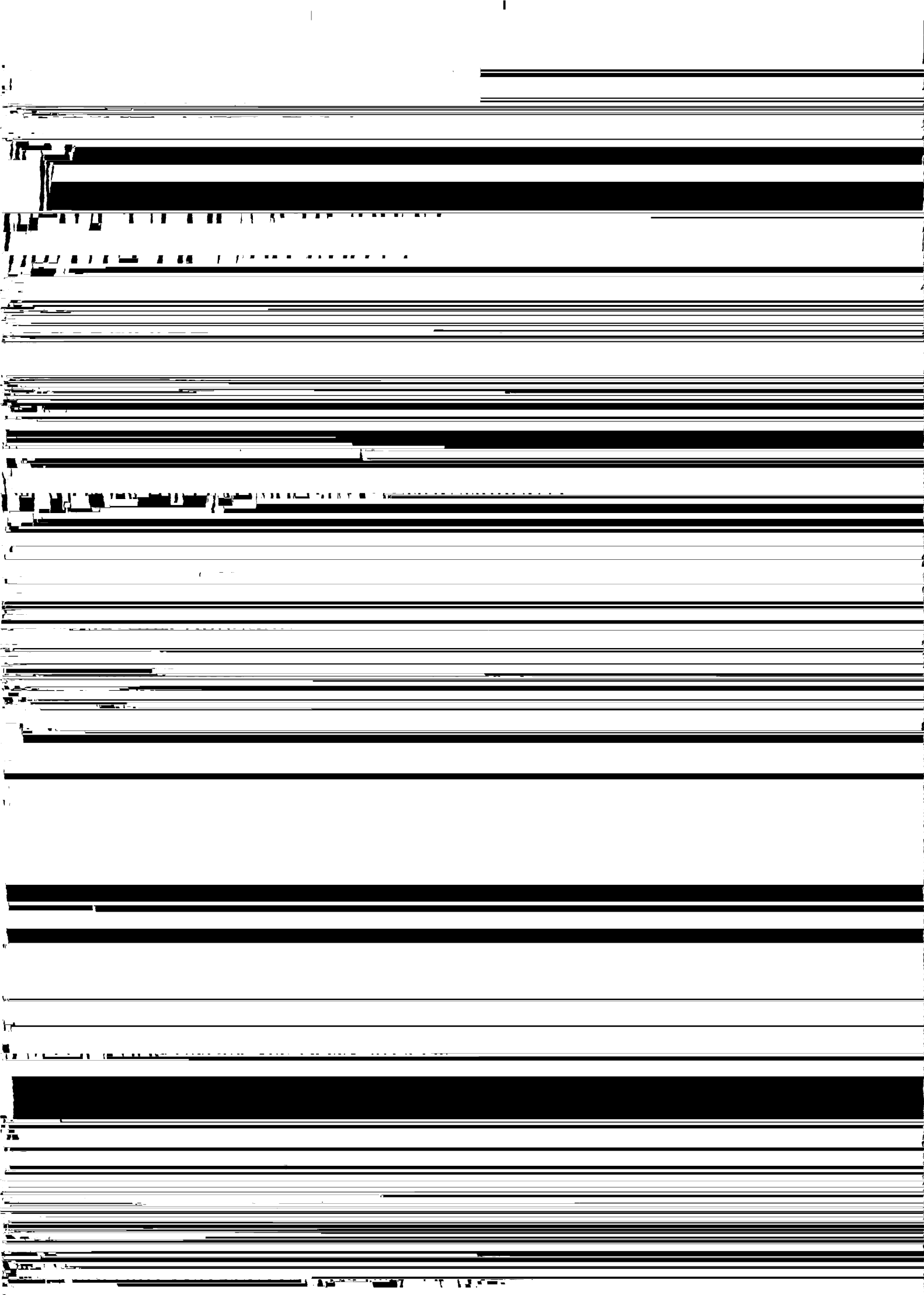
### **Reasons for the Decision**

13. The Tribunal did not receive any objection as representations against the application from any of the tenants. In fact, the only representations received was a letter dated 5 August from Mr David Graves, Chairman, Barbican Association, confirming that the Association does not oppose the application. He added however that should the Applicant be successful, the Association would naturally look to the Corporation to act in the best interest of residents.

14. The Tribunal was of the view that the Applicant should have complied with the "Notice of intention" stage of the consultation requirements of Schedule 2 rather than the ad hoc limited consultation they carried out. However not to grant dispensation for this reason would mean that the time table for the new contract for the Barbican Estate will not be met.
15. The nature of agreements for the supply of electricity at the most competitive price does not make it possible to comply with the consultation requirements in full. The Tribunal was persuaded however that such agreements will be of benefits to both the Applicant and Respondent.
16. The Tribunal accepted the Applicant's reasons for not being able to comply the consultation requirements of Schedule 2 and was satisfied that it is reasonable to grant dispensation.
17. **The decision to dispense however does not determine that costs incurred by the Corporation of London under the proposed agreements and levied as service charges are to be regarded as payable or reasonable. Tenants' liability for such charges will be subject to the terms of their individual leases and statutory provisions of section 27A of the Act.**

CHAIRMAN ..... 

DATE ..... 5/9/05 .....



THE LONDON RENT ASSESSMENT PANEL

Residential





