



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

<b>Case Reference</b>	: CHI/00HH/LDC/2022/0055
<b>Property</b>	: Various properties within the LiveWest portfolio
<b>Applicant</b>	: LiveWest Homes Limited <a href="mailto:richard.jeffreys@livewest.co.uk">richard.jeffreys@livewest.co.uk</a>
<b>Representative</b>	: -
<b>Respondent</b>	: The Leaseholders
<b>Representative</b>	: -
<b>Type of Application</b>	: To dispense with the requirement to consult lessees about major works section 20ZA of the Landlord and Tenant Act 1985
<b>Tribunal member</b>	: W H Gater FRICS Regional Surveyor
<b>Date of Directions</b>	: 28 June 2022

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**DIRECTIONS**

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**This is a formal order of the Tribunal which must be complied with by the parties.**

**The parties must comply with the Statement on Tribunal Rules and Procedure issued August 2020 and the Guidance on PDF bundles dated August 2020, which are enclosed with these directions (if not already provided).**

**Communications to the Tribunal MUST be made by email to [rpsouthern@justice.gov.uk](mailto:rpsouthern@justice.gov.uk). All communications must clearly state the Case Number and address of the premises.**

### **Service of documents**

1. Documents to be sent by one party to another shall be sent electronically to the email address provided, unless the receiving party requests a paper copy.

### **Background**

2. The Applicant seeks dispensation under Section 20ZA of the Landlord and Tenant Act 1985 from the consultation requirements imposed on the landlord by Section 20 of the 1985 Act.
3. The application was made on 1 June 2022 and relates to 10,304 properties that are managed by the Applicant which receive “*either landlord's communal electricity, lighting or district heating within the LiveWest geographical operating area. There is a mixture of flats, houses and bungalows.*”
4. The Applicant explains that this application concerns a qualifying long-term agreement which has yet to be entered into. Further it states that the agreement that “*LiveWest Homes Limited wishes to enter into [is] for the bulk purchasing of energy on the wholesale energy market. Currently, we purchase the energy on an annual basis and can be at risk of losing out on obtaining the lowest tariffs available via long term agreements. LiveWest Homes Limited will use the services of Inspired Energy PLC to procure the energy supplies.....We intend to enter the energy market as soon as possible if we receive the dispensation with a view to signing a qualifying long term agreement with a supplier(s) to take effect as soon as possible.*”
5. Further detailed representations regarding the reasons for the urgency of the application and why dispensation is sought, together with additional information regarding the consultation process are set out in pages 5 and 8 of the application form.
6. On 10 June 2022 the Tribunal issued directions for the determination of the matter. Respondents were required by 24 June 2022 to complete and return a form detailing reasons for any objection. Those who did not respond or agreed to the application were to be

removed as Respondents. In the event that objections were received the matter was set down for a hearing scheduled for 28 June 2022.

7. In preparing for the hearing the Tribunal is aware that concerns have been expressed by a Respondent and the Applicants that the reply form erroneously refers to 8 July 2022 as the last date for responses despite the directions stating that this date is 24 June 2022. The particular concern is that other respondents may believe that they have until 8 July 2022 to respond.
8. The Tribunal has considered the matter. The application potentially affects 10,304 properties. Notwithstanding the need to expedite the matter, there is potential that a number of respondents may be under the impression that they can reply by 8 July 2022. As an objection has been received, a hearing will take place. In the light of the concerns expressed, the Tribunal considers that in the interests of justice the hearing should be rearranged to a date after 8 July 2022.
9. Directions were issued to that effect on 27 June 2022. On 28 June 2022 the Applicants made a case management application to vary the directions.
10. In support of that application the Applicants pointed out that compliance with direction 10 of 27 June 2022, to send the directions to each leaseholder by 4 July 2022, would result in significant costs to the Applicant. In particular, it would require in the region of 40,000 pages to be printed, collated and posted. This communication was anticipated to cause confusion for residents.
11. Furthermore, the Applicants state that, as Respondents have already received details, now that the deadline for responses has been moved to 4pm on 4 July 2022 the leaseholders are not being disadvantaged in that any Respondents who plan to object or agree will still have their views considered.
12. As an alternative the Applicants propose a revised direction where the directions are uploaded to the LiveWest website with a requirement to forward hardcopies to Respondents on request and an undertaking to inform those who make enquiries, of the changed directions..
13. The Tribunal has considered the latest application. It has had regard to the Overriding Objective under Tribunal Procedure Rules. In particular it should deal with cases proportionately and have regard to anticipated costs. The Tribunal is satisfied that none of the leaseholders will be prejudiced by the proposed alteration. Accordingly, it grants the application.
14. The revised further directions are set out below for the convenience of publication, with the amended direction shown underlined at 16 and 17.

## **FURTHER DIRECTIONS**

15. The hearing will take place at Havant Justice Centre, Elmleigh Road, Havant, PO9 2AL on **13 July 2022 at 2 p.m. (timing is subject to change)**. The hearing is scheduled to last 2 hours. If the parties disagree with the length of the hearing, they must notify the Tribunal immediately.
16. **Immediately on receipt of these directions the Applicant shall upload a copy on to the LiveWest website – [www.livewest.co.uk/dispensation](http://www.livewest.co.uk/dispensation) with all other documentation previously uploaded and shall by 4 July 2022 confirm to the Tribunal that this has been done. IF THE APPLICANT FAILS TO INFORM THE TRIBUNAL BY THE SAID DATE THE APPLICATION WILL BE STRUCK OUT WITHOUT FURTHER NOTICE.**
17. **In addition, hardcopies of these Directions shall be forwarded to Respondents upon request. Furthermore, if the Applicant receives any further enquiries regarding the deadline date for submissions, they will inform Respondents of the amended deadline for responses and the proposed hearing re-scheduled for 13 July 2022 at 2 p.m.**
18. The only issue for the Tribunal is whether or not it is reasonable to dispense with the statutory consultation requirements. This application is not about the proposed costs of the works, and whether they are recoverable from the leaseholders as service charges. The leaseholders have the right to make a separate application to the Tribunal under section 27A of the Landlord and Tenant Act 1985 to determine the reasonableness of the costs, and the contribution payable through the service charges.
19. The Tribunal confirms, for the avoidance of doubt that it will now accept objections from Respondents up to 4pm on 8 July 2022.
20. Save for these changes, the directions of 10 June 2022 shall stand.