



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

Case Reference : **LON/OOBE/LDC/2023/0074**

Property : **All residential leasehold properties
Managed by the London Borough of Southwark**

Applicant : **London Borough of Southwark
Hsq.homeownership@southwark.gov.uk**

Respondents : **All leaseholders**

Participating Respondents : **The leaseholders listed in the Schedule**

Application : **Dispensation from consultation requirements - sections 20 and 20ZA Landlord and Tenant Act 1985**

Date of Directions : **23 October 2023**

DIRECTIONS

Following issue of the Directions dated 31 August 2023 the tribunal received correspondence from the Council requesting a variation to certain of the directions. The tribunal cannot consider a variation without allowing the respondent leaseholders a chance to comment on

the request. Consequently, on 28 September 2023 the tribunal asked the Council to post a copy of its application for a variation on the Council website with a request that any leaseholder objecting to the application send a copy of their objection to the tribunal and the Council within 7 days of the date on which the notice was posted.

The Council's application and notice was duly posted with a note stating that leaseholder objections should be filed no later than 12 October 2023. The date on which the application and notice was posted on the website is not clear. The application is for a variation of paragraph 6 of the Directions dated 31 August 2023 to extend the Council's time for filing witness statements to 17 November 2023. The grounds are that the Council would like time to consider the respondent leaseholders submissions/witness statements before filing its own witness statements.

The tribunal has received 15 responses from the leaseholders, all of whom have requested an additional two-week period of time. Although not entirely clear the extensions requested appear to relate to the period following expiry of any extended period granted to the Council. Presumably to enable leaseholders to file witness statements or additional statements in response to those filed by the Council.

As those leaseholders have expressed a clear wish to participate fully in the proceedings the tribunal has designated them as fully participating respondents and their brief details, in addition to those participating in the CMH, are shown in the Schedule. The tribunal will copy all future directions to the Council and the participating leaseholders listed in the Schedule to avoid the communication issues some leaseholders have raised in their correspondence. The Council should ensure that all future correspondence with the tribunal is, at the same time, copied to the participating respondents in addition to being posted on the Council website.

The application and objections indicate that the parties may not have fully understood the distinction between a statement of case and a witness statement. The statement of case should set out what the party alleges to be the factual basis of their legal claim or argument. It should be a concise statement of the facts on which the party relies, an explanation of how those facts are to be evidenced and why they are relevant to the legal basis of the claim (or objection).

A witness statement is a factual statement which contains the witness's evidence of the facts alleged. It is not a vehicle for submissions or argument, all of which should already have been covered in the parties' statements of case. Consequently, the usual direction is for simultaneous exchange of witness statements.

The Council filed a comprehensive statement dated 8 August 2023 which exhibited copies of its notice of intent and proposal. The statement sets out in some detail the basis of the application, but the Directions of 31 August 2023 provided for the Council to file a supplemental statement if it wished.

The leaseholders were directed to file expanded statements of case (if they wished) no later than 4 November 2023 and to avoid further delay in the timetable the leaseholders were also directed to file their witness statements by the same date.

The Council has had ample opportunity to consider the arguments and submissions filed by the leaseholders in their initial responses to the application. Given the narrow issue to be

determined on this application it is unlikely that the Council will be taken by surprise by anything that is relevant to that determination when/if the leaseholders file their statements and evidence. For that reason, the Council was also ordered to file its witness statements by 4 November 2023.

It is not usual or appropriate for additional time to be given to a party to file what is in effect additional submissions/evidence in response to the other parties' witness statements. Disputed witness evidence is a matter for submissions and argument at the hearing.

If there are issues concerning the admissibility or relevance of evidence following exchange of witness statements, paragraph 7 of the Directions provides for any party to seek further or additional directions.

For these reasons it is not appropriate to grant the extensions of time requested by the Council or the participating leaseholders. It follows that there is also no need to allow leaseholders additional time to consider the Council's application. However, as the timetable has already been set back by this application the time limit for compliance with paragraphs 4-7 of the Directions has been extended as set out below.

The tribunal asks all parties to remember that it is unable to consider any applications or correspondence that is not copied to the other party. Neither can the tribunal comment on complaints or criticisms concerning the way in which another party is conducting its case. If further directions are required to enable a party to participate fully and fairly in the proceedings a party can at any time make an application for such directions as are necessary to address this.

The Council must ensure that any request or response to the tribunal is posted on the Council website and copied to the participating leaseholders.

Finally, it appears from the correspondence that leaseholders continue to experience difficulty contacting other participating leaseholders that may wish to combine their efforts and representation. Mr Martindale wrote to the Council on 15 August 2023 to provide an email address for posting on the LBS website at which he could be contacted. It is not clear to the Tribunal if that has happened.

DIRECTIONS

- 1. On or before the 31 October 2023, the Council must serve these directions on all Leaseholders by uploading an electronic copy to its website.**
- 2. The Tribunal will send a copy of these directions to the participating respondents listed in the Schedule at the email addresses currently held by the Tribunal.**
- 3. All future correspondence sent to the Tribunal must be copied to the other parties. This means that the Council must, in addition to posting future correspondence on its website, also email a copy to the participating leaseholders. Participating leaseholders must copy any correspondence sent to the Tribunal to the Council representative at the same time.**

4. The Council must also confirm within the next 7 days whether or not it has posted details of Mr Martindale's email address (as provided in his letter of 15 August 2023) on its website.
5. The Directions dated 31 August 2023 are varied as follows:
 - a. Paragraph 4 (Leaseholders expanded statements of case) the time for compliance is extended to 4.00pm on 24 November 2023.
 - b. Paragraph 5 (notify Tribunal of wish to attend the final hearing) the time for compliance is extended to 4.00pm on 24 November 2023.
 - c. Paragraph 6 (Council's witness statements) the time for compliance is extended to 4.00pm on 24 November 2023.
 - d. Paragraph 7 (further directions) the time for compliance is extended to 4.00pm on 8 December 2023.
6. Leaseholders not currently listed in the Schedule who oppose the application are reminded to check Southwark website regularly for further Directions and correspondence from the Tribunal.

D Barlow
Deputy Regional Judge

23 October 2023

List of fully participating Respondents

1	Thufel Ahmed	
2	Ms Clare Boot (nee Barnard)	██████ Dighton Court (and other LBS properties)
3	Ms Belinda Blanchard	██████ Frome House
4	Zerbabel Caumba	
5	Joshua Davidson	██████ Princes Court
6	Tom Gilson	
7	Ms Joanne Green	██████ Wade House
8	Tereza Fritz	██████ Princess Court
9	Jack Heath	██████ Gillies Court
10	Ms India Hill	██████ Dighton Court
11	Ms Elizabeth Izen	██████ Princes Court

12	Mr Neil Martindale	████████ Albury Buildings
13	Ms Elaine Mills	
14	Mr Brendan O Brien	████████ Africa Place
15	Mr Nick Pandy	████████ Burwash House
16	Ms Daniella Palmer	Havil Street
17	Ms K Papachristou	████████ Drinkwater House
18	Ms Sophia Senton	████████ Comber House
19	Ms Sharon Shahani	████████ Magdalene Close
20	Jatinder Singh	
21	George Stowell	████████ Rudge House
22	Ms Danielle Valens	