



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

Case reference : **LON/00AR/LSC/2023/0332**

Property : **Various leasehold properties within the London Borough of Barnet**

Applicant : **London Borough of Barnet**

Representative : **Mr Beetson (counsel)**

Respondent : **Various leasehold properties within the London Borough of Barnet**

Representative : **In person**

Type of application : **For a determination of the payability of service charges S27A Landlord and Tenant Act 1985**

Tribunal : **Judge Tueje
Mr S Mason FRICS**

Venue : **10 Alfred Place, London WC1E 7LR**

Date of hearing : **12th March 2024**

Date of directions : **22nd March 2024**

FURTHER DIRECTIONS

These directions are in addition to the Tribunal's Amended Directions dated 20th September 2023 and the Further Directions dated 20th December 2023.

Next hearing:	At a face to face final hearing at 10 Alfred Place, London WC1E 7LR, on 19th, 20th and 21st November 2024 starting at 10:00 am
Inspection:	The tribunal does not currently consider an inspection of the property is required. However, one will be arranged by the tribunal at the hearing if it considers it necessary

Communicating with the Tribunal

- Unless directed otherwise, all communications to the tribunal, including the filing of documents and bundles, should be by **email ONLY**, attaching a letter in Word format. Emails must be sent to London.RAP@justice.gov.uk. The attachment size limit is 36MB. If your attachments are larger than 36MB they must be split over several emails.
- **If a party does not have email, access to the Internet and/or cannot prepare digital documents, they should contact the case officer about alternative arrangements.**
- Documents prepared for the tribunal should be easy to read. If possible, they should be typed and use a font-size of not less than 12.

Background

- (1) The application was originally brought by Barnet Homes on behalf of the London Borough of Barnet.
- (2) The application sought to alter the method of calculating the management charge for leaseholder properties. It also wished to change the method for calculating the administration costs for major works. The application requested the Tribunal determines whether the estimated management fee for 2024/5 at £186.16 (based on the new methodology) is reasonable. It also wants the Tribunal to determine whether the proposed administration charge to deliver major works at Aeroville NW9 5JT at £464.94 (applying the new methodology) is reasonable.
- (3) The Tribunal has identified the following issues to be determined:
 - Whether the proposed management fee in 2024/25 is payable.
 - Whether the proposed administration charge for delivering major works at Aeroville in 2024/25 is payable.

- (4) The Tribunal also clarified that the application raises only issues relating to the payability of service charges under section 27A of the Landlord and Tenant Act 1985.
- (5) By the amended directions order dated 20th September 2023, any leaseholder who objected to the application, and wanted to participate in the hearing, was to notify Barnet Homes' solicitors in writing. The solicitors received around 31 objections.
- (6) The application was listed for a final hearing on 11th December 2023, when five leaseholders attended in person and two leaseholders joined remotely. Barnet Homes prepared a bundle for that hearing which contained a sample lease. Barnet Homes was not a party to the sample lease.
- (7) Many of the written objections disputed Barnet Homes' standing, and argued their leases were materially different to the sample lease that had been provided. These arguments were pursued by those Respondents who attended the hearing. Accordingly, the 11th December 2023 hearing was adjourned with directions, to enable the Tribunal to consider Barnet Homes' standing.
- (8) The adjourned hearing was held on 12th March 2024; Barnet Homes prepared a 1180-page electronic bundle. At that hearing Mr Beetson requested Barnet Homes is substituted by the London Borough of Barnet as the Applicant. The Tribunal granted that request, and made directions up to and including listing the application for a final hearing.
- (9) The Tribunal notes a number of leaseholders have written stating they had been unaware of this application because they had not received the original application form. Some of those also wrote that they were aware of other leaseholders who had not received the original application form. While mindful of the cost and other resource implications, having been informed that a number of leaseholders had not received the application form, in the interests of justice, the Tribunal directed that documentation notifying all leaseholders of the application is sent to all leaseholders as provided for in this order. We considered this was proportionate to ensure, so far as practicable, all respondents are aware of the proceedings so that they can participate to the extent they wish to.
- (10) These directions were made and explained to the parties at the hearing on 12th March 2024. They must be complied with even if this Directions Order arrives after the date given in an order for doing something.
- (11) The directions (including hearing date) have been drawn up in consultation with those who attended the hearing, all of whom confirmed they were available to attend the final hearing.

DIRECTIONS

1. This case is to be determined at a face-to-face hearing, and details of that hearing are provided below.

Preparation for the hearing by both parties

The Landlord's statements of case

2. By 26th March 2024 the Applicant shall send to the Tribunal and to all the tenants that have objected to the application the following:
 - 2.1 An amended application form;
 - 2.2 An amended statement of case; and
 - 2.3 Written confirmation that the London Borough of Barnet agrees to being substituted as the Applicant.
3. The amendments referred to at paragraphs 2.1 and 2.2 above are limited to the substitution of Barnet Homes by the London Borough of Barnet as the Applicant. The amendments should be identified by strikethrough and underlined text as appropriate.
4. By 26th March 2024 the Applicant shall send a letter to all other tenants to notify them that the application dated 8th August 2023 has been amended, that an amended application form and amended statement of case has been prepared. That letter shall also contain a link to the Applicant's website where this Directions Order and the documents at paragraphs 2.1 to 2.3 above will be available for viewing and downloading.

The Tenants' case

5. Any respondent who objects to the amended application must state the nature of their objections, with reasons for the objections, and send these to the Applicant by 9th April 2024 as follows:
 - 5.1 Any tenant who so far has not objected to these proceedings must write to the Applicant stating they object to the amended application, providing details of their objections with reasons.
 - 5.2 Any tenant who has already objected to the original application but who objects to the amended application on different and/or additional grounds must write to the Applicant stating they object, providing details of their objections with reason.
- 6 Any tenant who has already objected to the original application will be taken to also object to the amended application on the same grounds as contained in any previous objections, insofar as their existing objections relate to the amended application.
- 7 Any objections from tenants must be concise and must be relevant only to the issues identified at paragraph (3) of the Background section above. Such objections should not repeat objections already submitted by that leaseholder, must not attach documents previously submitted or documents extraneous to the issues arising from the application.

- 8 Any tenant who has not already objected to the application, and who does not object to the amended application in accordance with paragraph 5.1 above, will be barred from participating in these proceedings.

The Landlord's Response

- 9 By 30th April 2024 the Applicant may prepare a short response to any objections received, and shall send a copy of any response to the Tribunal and the tenants.

Disclosure

- 10 The parties shall only provide disclosure of documents that have not previously been disclosed, and only where the disclosed documents are relevant to the issues identified by the Tribunal. Such disclosure should be provided as follows:

10.1 By 14th May 2024 the applicant shall provide disclosure to the tenants..

10.2 By 28th May 2024 any tenant who has objected to the application and/or the amended application shall provide disclosure to the applicant.

- 11 A party who discloses any document(s) after the applicable period will not be allowed to rely on that document without the Tribunal's permission.

- 12 Any tenant who has not previously objected to the application may contact the Applicant's solicitors to request a copy of the hearing bundle referred to at paragraph (8) of the Background section above, which should be provided on request.

Witness statements

- 13 The parties shall provide witness statements of fact upon which they will rely. Those witness statements should identify the name and reference number of the case, have numbered paragraphs, and end with a statement of truth and the signature of the witness. Original witness statements should be brought to the hearing. In addition, witnesses are expected to attend the hearing to be cross-examined as to their evidence, unless their statement has been agreed by the other party. The witness statements shall be provided as follows:

13.1 By 11th June 2024 the Applicant shall provide its witness statement(s) to the tenants.

13.2 By 9th July 2024 any tenant who has objected shall send their witness statement to the Applicant.

- 14 Any party who does not provide a witness statement within the applicable period set out above, will not be allowed to give evidence at the final hearing without the Tribunal's permission.

Providing Documents

- 15 All documents which the applicant has been directed to provide at paragraphs 9, 10.1 and 13.1 above (but not paragraph 18 below), must be provided as follows:
- 15.1 By post to Ms Ignatius and Mr Patabendige, whose correspondence addresses the applicant is aware of;
 - 15.2 By making it available for collection by Mr Lanyado from an address already agreed, or to be agreed, between the applicant and Mr Lanyado;
 - 15.3 By e-mail to all other tenants who have objected; and
 - 15.4 On the applicant's website, together with a copy of these directions, where they should be available for viewing and downloading.
- 16 Where the respondents are required to provide or send documents to the Applicant they must do so either by sending the documents to the Applicant's solicitors at Judge & Priestley, Justin House, 6 West Street, Kent, BR1 1JN or by e-mail to litigationsupport@judge-priestly.co.uk.

Evidence from abroad: any party or witness

- 17 If you or your witness intends to give oral evidence at the hearing from somewhere outside of the United Kingdom, you must:
- (a) Follow the guidance provided in the Guidance Note for Parties: Giving Evidence from Abroad, which can be **obtained from the Tribunal's case officer**.
 - (b) Notify the Tribunal by email to London.Rap@justice.gov.uk, within 5 working days of receipt of these Directions, to confirm that you or your witness intends to apply to give evidence from abroad, confirming
 - the matters set out in paragraph 7 of the Guidance Note, **and**
 - the witness's citizenship or permitted residence status in the country in question.

Failure to follow the Guidance is likely to result in you or your witness being unable to give oral evidence from abroad.

Documents for the hearing/ determination

18. The **applicant** must seek to agree the contents of a hearing bundle with the other parties, and must then prepare a digital and indexed hearing bundle, in Adobe PDF format, which must be provided to all leaseholders who have objected and to the tribunal, at London.Rap@justice.gov.uk by **29th October 2024**. The subject line of the email must read: "BUNDLE FOR HEARING" followed by the case reference and the address of the Property.

19. The bundle must be a single PDF document with continuous pagination. The bundle must be bookmarked and searchable.
20. If the bundle is too large to email, use can be made of a secure file sharing website. Only documents previously exchanged by the parties should be included in the hearing bundle. If there is a dispute between the parties regarding the contents of the hearing bundle, a prompt application must be made to the tribunal, by the party wishing to rely upon those documents, seeking the tribunal's permission to do so. Any such application must be made using form Order 1 and must be accompanied by copies of the documents in question
21. Only those documents sent in bundles are likely to be before the tribunal at the full hearing and parties should not send documents "piecemeal" to the case officer.
22. The bundle shall contain copies of:
 - the application and amended application with documents enclosed
 - all directions orders made in these proceedings
 - applicant's statement(s)
 - any statement(s) in reply
 - all relevant accounts
 - any other documents on which either party wishes to rely (including, where relevant, any good quality, colour photographs)
 - any signed witness statements
 - the lease or specimen lease and a schedule of any relevant variations in other leases, whether by deed or in the original lease
23. It is essential that the parties include any relevant correspondence to the tribunal within their digital bundle.
24. Any application in respect of reimbursement of fees will be dealt with at the hearing and the parties may wish to make written representations on this and on any section 20C application and/or paragraph 5A application made in their statements, or make oral representations at the end of the hearing.

Determination

Hearing

25. The parties may, if they wish (but are not obliged to) provide the tribunal and the other parties with a concise written summary of their case (referred to as a "skeleton argument") **three days** before the date of the listed hearing.
26. The hearing is estimated to last for 3 days. The hearing should end in time for the tribunal to deliberate on its decision. If any party considers this is an unrealistic estimate, they should write to the tribunal (and send a copy to the other parties), explaining why, no later than two weeks prior to the hearing date.

27. A party who is intending to rely upon oral witness evidence at the hearing must provide the witness with a copy of the hearing bundle for use at the hearing.
28. Parties may wish to print out a copy of the digital hearing bundle(s) for use at the hearing. The tribunal will be using the digital hearing bundles provided, unless it directs otherwise.
29. Any party may request, from another party, a physical paper copy of a hearing bundle relied upon by that party (this must be provided, free of charge, within seven days of the request).

Non-Compliance with Directions

30. The parties must comply with **all** of the above directions. Non-compliance includes failing to take a relevant step within the required timeframe and/or providing documentation that goes beyond or fails to meet any specified requirements, such as the requirements set out at paragraphs 7 and 10 above.
31. **If the applicant fails to comply with these directions the tribunal may strike out all or part of their case pursuant to rule 9(3)(a) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 (“the 2013 Rules”).**
32. **If the respondent fails to comply with these directions the tribunal may bar them from taking any further part in all or part of these proceedings and may determine all issues against it pursuant to rules 9(7) and (8) of the 2013 Rules.**

Name: Judge Tueje

Date: 22nd March 2024