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Date: 12th March 2019

Dear Sir/Madam

London Borough of Wandsworth –v- Various Leaseholders
Sprinkler Systems in Leasehold Properties

I refer to the above matter and to the interim directions of the Tribunal dated 28th February 2019. This letter is the Council's response to applications submitted seeking an adjournment or stay of this application.

It is noted that the Tribunal has received a number of applications and supporting emails from various respondents. The Council will not answer every issue raised, nor address technical factual issues that will be more readily dealt with at a substantive hearing.

The Council is reminded that following the Case Management Conference dated 16th October 2018, the Tribunal set out a timetable for parties to make submissions that would assist the Tribunal in determining the best path to bring this matter to a determinative hearing (the timetable being adjusted following the meeting of the Communications Group on the 30th November 2018).

Following the filing of the Council's detailed statement of case on the 21st December 2018, the next direction was for any respondent to file an application to strike out the Council's claim and/or seek a transfer of the case to the Upper Tribunal by the 5th March 2019. It is this direction that the Tribunal has now extended until the 22nd March 2019. If any such application was received the Tribunal will then make further directions. The Tribunal is not, at this time, making decisions on any of the detailed or technical arguments relating to the Application.

If I therefore confine my submissions to issues directly relating to the request for an adjournment or stay. These requests are largely based on the Council's Director of

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Housing and Regeneration agreeing to not commence works to install sprinklers, if the Tribunal was to find for the Council, and until such time as the Grenfell Inquiry reported and made findings. This was made at a meeting of the Housing & Regeneration Overview & Scrutiny Committee on the 13th September 2018.

It is argued that accordingly as there is no extant decision to install sprinkler systems that the Council's application is an abuse of the Tribunal's jurisdiction. The Council respectfully submits that this is incorrect as by Section 27A(3) of the Landlord &Tenant Act 1985 an explicit jurisdiction is provided to the Tribunal to determine prospective service charges in respect of expenditure of any specified description. Accordingly, it seems inevitable that service charges, in respect of which payability is being prospectively determined, may never actually be incurred.

Further, it is also submitted that until the Grenfell Inquiry makes relevant findings this application is a waste of time and public monies. The Council do not accept this, but in any event, many of the issues raised are issues of public law and therefore the appropriate challenge is by way of judicial review and not within the jurisdiction of the Tribunal. As Chair of the Tribunal Panel stated in the CMC, the Tribunal cannot and will not consider political issues nor the decision making process of the Council, but must confine itself to the interpretation of the clauses of the leases that have been raised in the Council's Statement of Case. It remains the case that the Council lawfully made a decision to retrofit a sprinkler system in appropriate buildings in accordance to the Constitution of the London Borough of Wandsworth on the 29th June 2017. That decision remains and officers duly comply with the Council's instructions.

It is also important to distinguish the decision of the Director of Housing and Regeneration made to the HROSC in September 2018. Firstly, it is not a decision of the Council. It is an operational decision within the Director's delegated authority with a view to implementation of works. Further, the context of the time that the decision was made should be considered. This application had been issued only a few weeks earlier with the Tribunal extended time for replies of expressions of interest and with the CMC put back until the 16th October 2018. The projected timetable for a determinative finding to this application was speculated to be late Spring, early Summer. At that time, the Inquiry was due to report in the Spring. Accordingly, it was deemed sensible to not proceed with the processes before works could commence when the Inquiry was due to report around the same time. The respective timetables are now wholly different, but in any event, it was never the intention to delay <u>this</u> application seeking the Tribunal's determination of the interpretation of the relevant lease clauses. Any pause would be for the commencement of the processes of implementing the works.

I add, as has already been put to the Tribunal, that before any works can commence the Council must undertake its statutory obligations to consult pursuant to Section 20 of the Landlord & Tenant Act 1985.

May I also respectfully submit that the potential cost to leaseholders in being represented in an application pursuant to Section 27A(3) is not a matter that the Tribunal

should properly take into account. To do so would act as a bar to the Tribunal's jurisdiction in any pre-emptive application.

In conclusion, the Council respectfully asks the Tribunal to reject any application to stay or adjourn on the basis of the Grenfell Inquiry making relevant findings and reports. To do so and make such linkage would inevitably cause considerable delay to this application and be no closer to a determination sought. It is respectfully submitted that any recommendations arising out of the Grenfell Inquiry can be dealt with and considered as part of the Section 20 consultation process. It has always been the Council's case that this application was to give clarity to the Council and leaseholders in regards to the legal position of leasehold obligations and the Council's general fiduciary duties.

Yours faithfully

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for Assistant Director Corporate Governance

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