

REQUEST FOR DIRECTOR DECISION – DD2421

Assessment of an application to transfer homes on the Patmos/Lothian Estate (Lambeth) to a new landlord

Executive Summary:

Under MD2542, the Mayor delegated authority to the Executive Director for Housing and Land, in consultation with the Deputy Mayor for Housing and Residential Development, to make findings of assessments of applications made by tenants groups under the Housing (Right To Transfer from A Local Authority Landlord) (England) Regulations 2013 unless such findings could be novel, contentious or repercussive in which case such findings will be made by the Mayor.

A formal application from PACCA TMO Ltd was received on 13 March 2019. The application proposes that 234 tenanted council homes and 50 leaseholder homes located on the Patmos/Lothian Estate are acquired by a new landlord (Vision Homes Lambeth Ltd), replacing the existing landlord (LB Lambeth). On 24 April 2019 the GLA confirmed to PACCA TMO Ltd that the application documentation comprised a valid application, sufficient to be subject to formal assessment by the GLA. The GLA has assessed the application in accordance with the relevant regulations and guidance issued by the Ministry of Housing, Communities and Local Government (MHCLG).

This assessment is contained in Part 2 of this Decision (Part 2) and concludes that the application should not be approved.

Decision:

The Executive Director of Housing and Land, in consultation with the Deputy Mayor for Housing and Residential Development, does not approve the application submitted by PACCA TMO Ltd in respect of the proposed transfer of 284 homes on the Patmos/Lothian estate under the Housing (Right To Transfer from A Local Authority Landlord) (England) Regulations 2013, based upon an assessment carried out in accordance with the same Regulations, statutory guidance and the Housing Transfer Manual published by MHCLG in July 2014.

AUTHORISING DIRECTOR

I have reviewed the request and am satisfied it is correct and consistent with the Mayor's plans and priorities. It has my approval.

Name: Rickardo Hyatt

Position: Interim Deputy Executive Director of Housing and Land

Signature:



Date:

8 June 2020

PART I - NON-CONFIDENTIAL FACTS AND ADVICE

Decision required – supporting report

1. Introduction and background

Assessment of Right to Transfer applications

- 1.1. The GLA is responsible for conducting initial assessments of applications to transfer local authority owned homes in London to a new landlord, made by tenant groups under the Housing (Right to Transfer from a Local Authority Landlord) (England) Regulations 2013. Final decisions on transfer rest with the Secretary of State.
- 1.2. The GLA's role also includes supporting applicant tenants' groups to develop their proposals, assessing their applications, and, if the application proceeds, approving the information provided to tenants to consider through formal consultation and a ballot on whether they want their homes transferred to a new landlord.
- 1.3. The assessment of applications for transfer centres on the business case supporting the application. The criteria for assessment are outlined in the Housing Transfer Manual published by MHCLG in July 2014. The Secretary of State retains the discretion to determine applications throughout the right to transfer process. Therefore, the right to transfer process will not stop where, following assessment, the GLA does not approve a business case. However, the statutory guidance notes that "it is unlikely the Secretary of State would consent to transfer if the GLA's approval has not been provided and, in practice, it is likely that it would lead to either the tenant group stopping the process or the local authority requesting a determination from the Secretary of State."
- 1.4. Under MD2542, the Mayor delegated authority to the Executive Director for Housing and Land, in consultation with the Deputy Mayor for Housing and Residential Development to decide whether or not to approve applications made by tenants groups under the Housing (Right To Transfer from A Local Authority Landlord) (England) Regulations 2013 unless it is deemed to be novel, contentious or repercussive in which case it will be made by the Mayor. Having regard to MD2542, the application, and the fact that the proposed decision is not to approve the application, the decision is not considered to be novel, contentious or repercussive.
- 1.5. A formal application from PACCA TMO Ltd was received on 13 March 2019 for the Patmos/Lothian estate. PACCA TMO Ltd is a tenant group pursuing a community-led transfer under the Right to Transfer Regulations. This organisation was the Tenant Management Organisation for the Patmos/Lothian estate between 2009 and 2015. Appendix 1 contains more detail about the organisation and the development of the right to transfer application.
- 1.6. The application proposes that 234 tenanted council homes and 50 leaseholder homes are acquired by a new landlord (Vision Homes Lambeth Ltd), replacing the existing landlord (LB Lambeth). LB Lambeth and PACCA TMO Ltd came to agreement on a transfer value, and heads of terms for a transfer agreement, in advance of the formal application being validated.
- 1.7. On 24 April 2019 the GLA confirmed to PACCA TMO Ltd that the application documentation comprised a valid application, sufficient to be subject to formal assessment by the GLA. The GLA has completed its assessment in accordance with the relevant regulations, statutory guidance and the Housing Transfer Manual. This is contained in Part 2, and concludes that the application should not be approved. Accordingly, it is recommended that the application is not approved.
- 1.8. Part 2 of this Decision contains GLA's Assessment of PACCA's Right to Transfer application and is not published at this stage. This is because it contains sensitive information. Upon publication of Part 1 of this Decision, the GLA will write to PACCA TMO Ltd and LB Lambeth seeking their views on the redaction of information from Part 2 that may be commercially sensitive, prior to publication. Upon receipt of responses, the GLA will decide on the redactions to be made (if any) to the published version of the Assessment (Part 2). The GLA will consider publishing a full unredacted Assessment (Part 2), with a review to be made six months after publication.

2. Objectives and expected outcomes

- 2.1. The objective of this decision is to set out the GLA's assessment of PACCA TMO Ltd's right to transfer application, and the reasons for the GLA's decision (contained in Part 2). This will help enable the Secretary of State to discharge their function of making the final decision on the application: whether to approve it; approve it subject to certain conditions; or reject it, ending the transfer process.

3. Equality comments

- 3.1. In assessing PACCA TMO Ltd's application, the GLA has complied with the public-sector equality duty. GLA officers have had due regard to the need to: eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Equality Act 2010; advance equality of opportunity between people who share a protected characteristic and those who do not; and foster good relations between people who share a protected characteristic and those who do not.
- 3.2. PACCA TMO Ltd's proposal includes the transfer of 50 leasehold homes, alongside 234 tenanted homes, let at social rents by LB Lambeth, to a new for-profit registered provider of social housing. There is a chronic shortage of affordable housing in London and those with protected characteristics are more likely to disproportionately suffer as a result of that shortage. A full equality impact assessment was conducted to inform the development of the Mayor's London Housing Strategy, which defines the Mayor's priorities for housing, including enhanced tenant involvement in estate regeneration.
- 3.3. A majority of the individuals affected by the proposed transfer of their homes are likely to be Londoners who are black or from minority ethnicities. In total, the last Census (2011) found that 53% of residents of the Vassall ward (in which the Patmos/Lothian estate is located) were non-white.
- 3.4. Census data also shows that 21% of individuals living in social rented accommodation in Lambeth reported a long-term health problem or disability, compared to 12% of the population across Lambeth as a whole. This is likely to be broadly reflected among people living on the Patmos Lothian estate.
- 3.5. A relatively high proportion of the adult individuals affected by the proposed transfer of their homes are likely to be lesbian, gay or bisexual. Public Health England estimated in 2017 that 10% of the adult population in Lambeth were lesbian, gay or bisexual – the highest proportion of any local authority in England.
- 3.6. PACCA TMO Ltd's application contains some positive proposals, in terms of resident and community empowerment (see Part 2, paragraphs 2.18-2.21), seeking to promote local economic activity (see Part 2, paragraph 2.10), and which have the potential to positively contribute to governmental and Mayoral housing and social policy objectives (see Part 2, paragraphs 2.22-2.24). Such proposals, among others assessed in the application, have the potential to help eliminate unlawful discrimination; advance equality of opportunity between people who share a protected characteristic and those who do not; and foster good relations between people who share a protected characteristic and those who do not. However, having taken these matters into account, the GLA's assessment concludes that the application should not be approved. By conducting a robust, transparent and fair assessment of PACCA TMO Ltd's 'right to transfer' application, the GLA best serves the interests of those with protected characteristics who are currently living on the Patmos/Lothian estate.
- 3.7. The outcome of the GLA's assessment means that, until a final decision is taken by the Secretary of State, the homes subject to the application will remain under the control of LB Lambeth, which is subject to the public-sector equality duty.

4. Other considerations

Links to Mayoral strategies and priorities

- 4.1. The Mayor's Housing Strategy has five priorities:
- building homes for Londoners;
 - delivering genuinely affordable homes;
 - high quality homes and inclusive neighbourhoods;
 - a fairer deal for private renters and leaseholders; and
 - tackling homelessness and helping rough sleepers.
- 4.2. Paragraph 5.81 of the Mayor's Housing Strategy states "it is essential that tenants, leaseholders, freeholders, and other residents and users of estates be reassured that, where regeneration is being considered, they will be fully involved in the process, and that councils, landlords and others will abide by a common minimum set of standards."
- 4.3. The Mayor's Good Practice Guide to Estate Regeneration - 'Better Homes for Local People' outlines that social housing residents must be at the heart of decisions about the ongoing management and future of their estates.
- 4.4. The New London Plan states at Policy H10 - Loss of existing housing and estate redevelopment that:
- before considering the demolition and replacement of affordable homes, boroughs, housing associations and their partners should always consider alternative options first; and
 - demolition of affordable housing, including where it is part of an estate redevelopment programme, should not be permitted unless it is replaced by an equivalent amount of affordable housing floorspace.
- 4.5. The Mayor's Strategy 'A City for All Londoners' sets out the Mayor's strategy to:
- help Londoners participate in London's economy, understand the opportunities generated by the businesses on their doorstep and the pathways to get there; and
 - encourage active participation in community and civic life, including supporting Londoners of all ages to volunteer and to act to improve our city.

Impact assessments and consultations

- 4.6. The GLA has worked with PACCA TMO Ltd since 2017 in relation to the proposed transfer. This has included supporting PACCA to develop their proposals, and seeking requests for further clarification on various matters (see Annex 2 to Part 2). The GLA has also met with members of PACCA, and in meeting representatives of the tenants group, the GLA has understood that tenants from PACCA have a clear motivation to assert a higher level of control over the way their homes are managed.
- 4.7. GLA officers have consulted with the local authority (London Borough of Lambeth) for clarifications and confirmation of facts (see Annex 3 to Part 2).

Risks

- 4.8. There is limited risk to this decision that PACCA TMO Ltd's application for transfer should not be approved.. The outcome is that, until a final decision is taken by the Secretary of State, the homes subject to the application will remain under the control of LB Lambeth.
- 4.9. There is a risk that without publishing the findings of the assessment of PACCA TMO Ltd's 'right to transfer' application, the GLA would be failing to fulfil a key responsibility defined by central government in the Housing Transfer Manual. The impact of this would be uncertainty for tenants and

leaseholders affected by the proposed transfer, and for other key stakeholders including the existing landlord (LB Lambeth) and the stakeholders in the proposed new landlord ('Vision Homes Lambeth'). To address this risk, this Decision makes the findings of the GLA's assessment available in the public domain, subject to the procedure outlined in paragraph 1.8.

- 4.10. Given the COVID-19 pandemic, on 30 March 2020 the GLA sought assurance that the tenants group; Berish Berger and the companies named in PACCA's application as providing finance to Vision Homes (Lambeth) Limited; the London Borough of Lambeth; and Pinnacle PSG remain ready, willing and able to proceed with the proposed stock transfer and management on the terms presented in the application – in the event that the application is approved to proceed to ballot and achieves a positive ballot result endorsing transfer. The individual representing PACCA confirmed that he has spoken with the tenant group, the Berger group of companies, the Independent Tenants Adviser and Pinnacle PSG; and that all have confirmed their willingness and ability to proceed to ballot without the need to change any aspect of the Business Case. The GLA subsequently sought written assurance as to these matters on 13 April 2020, which has been received from all bodies except LB Lambeth. Given that the proposed decision is not to approve the application, it is not necessary to wait for LB Lambeth's response.

Declarations of Interest

- 4.11. The officers involved in the drafting or clearance of this form do not have an interest to declare in accordance with the GLA's policy on registering interests which might, or might be seen to, conflict with this Director's Decision.

5. Financial comments

- 5.1. This decision is not considered to have any direct financial impacts on the Greater London Authority.

6. Legal comments

- 6.1. The Housing (Right to Transfer from a Local Authority Landlord) (England) Regulations 2013 (the 2013 Regulations) enable tenant groups to explore and apply for transfer of local authority owned homes to a private registered provider of social housing. The Regulations set out the procedure to be followed by tenant groups and local authorities, together with the circumstances in which a determination might be made by the Secretary of State.
- 6.2. Regulation 3 of the 2013 Regulations provides that local authorities must have regard to any guidance given by the Secretary of State relating to these Regulations. Statutory guidance was issued by the Secretary of State in November 2013 and it is this guidance, together with the Housing Transfer Manual to which the guidance refers, which set out those areas that require GLA assessment or approval.
- 6.3. The foregoing sections of this report indicate that the GLA's role pursuant to the above statutory guidance and the Housing Transfer Manual fall within the statutory powers of the Authority under sections 30 and 34 of the Greater London Authority Act 1999 to promote and/or to do anything which is facilitative of or conducive or incidental to the promotion of social development in Greater London and in preparing the proposals in respect of which a decision is sought officers have complied with the Authority's related statutory duties to:
- (i) pay due regard to the principle that there should be equality of opportunity for all people;
 - (ii) consider how the proposals will promote the improvement of health of persons, health inequalities between persons and to contribute towards the achievement of sustainable development in the United Kingdom; and
 - (iii) consult with appropriate bodies.

- 6.4. The Mayor may delegate the exercise of Mayoral powers to staff of the GLA generally or specifically and subject to conditions under sections 38(1) and (2) of the GLA Act 1999.
- 6.5. The “Mayoral Decision Making in the GLA” document (MDM) sets out the default framework of delegations in exercise of those powers but the Mayor may by a Mayoral Decision form (MD) amend or give free-standing delegations outside that framework at any time. MD2542 approves the delegation to the Executive Director of Housing and Land to make the decision recommended in this report.
- 6.6. In taking the decision requested, the Director must have due regard to the Public Sector Equality Duty; namely the need to eliminate discrimination, harassment, victimisation and any other conduct prohibited by the Equality Act 2010, and to advance equality of opportunity between persons who share a relevant protected characteristic (race, disability, gender, age, sexual orientation, religion or belief, pregnancy and maternity and gender reassignment) and persons who do not share it and foster good relations between persons who share a relevant protected characteristic and persons who do not share it (section 149 of the Equality Act 2010). To this end, the Director should have particular regard to section 3 (above) of this report.

7. Planned delivery approach and next steps

- 7.1. The Mayor is supportive of those tenants on the Patmos/Lothian estate who have expressed an aspiration for a greater level of control. Working in collaboration with the Deputy Mayor for Housing and Residential Development, GLA officers will continue to support tenants to realise their aspirations to influence and control the future management and investment in their homes. The GLA intends to support initiatives that build the capacity of tenants and residents to take on a greater role in shaping the future of the Patmos/Lothian estate. The Deputy Mayor will meet with members of PACCA TMO Ltd and with other local residents in order to consult on the scale and nature of Mayoral initiatives, to help ensure they are responsive to local needs.

Activity	Timeline
Communication of decision to PACCA TMO Ltd, LB Lambeth, and Ministry for Housing, Communities and Local Government	June 2020
Deputy Mayor to meet with members of PACCA TMO Ltd and with other local residents in order to consult on the scale and nature of Mayoral initiatives to support tenants to realise their aspirations to influence and control the future management and investment in their homes.	July 2020

Appendices and supporting papers:

Appendix 1: PACCA TMO Ltd’s development of a Right to Transfer application

Public access to information

Information in this form (Part 1) is subject to the Freedom of Information Act 2000 (FoIA) and will be made available on the GLA website within one working day of approval.

If immediate publication risks compromising the implementation of the decision (for example, to complete a procurement process), it can be deferred until a specific date. Deferral periods should be kept to the shortest length strictly necessary. **Note:** This form (Part 1) will either be published within one working day after it has been approved or on the defer date.

Part 1 - Deferral

Is the publication of Part 1 of this approval to be deferred? NO

Part 2 – Sensitive information

Only the facts or advice that would be exempt from disclosure under FoIA should be included in the separate Part 2 form, together with the legal rationale for non-publication.

Is there a part 2 form – YES – (and see paragraph 1.7 above)

ORIGINATING OFFICER DECLARATION:

Drafting officer to confirm the following (✓)

Drafting officer:

Jonathan Schifferes has drafted this report in accordance with GLA procedures and confirms the following:

✓

Assistant Director/Head of Service:

Heather Juman has reviewed the documentation and is satisfied for it to be referred to the Sponsoring Director for approval.

✓

Financial and Legal advice:

The Finance and Legal teams have commented on this proposal, and this decision reflects their comments.

✓

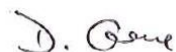
Corporate Investment Board

This decision was agreed by the Corporate Investment Board on 8 June 2020

EXECUTIVE DIRECTOR, RESOURCES:

I confirm that financial and legal implications have been appropriately considered in the preparation of this report.

Signature



Date

8 June 2020