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Maple House,
149 Tottenham Court Road,
London
W1T 7BN

Monday, July 28, 2014

Dear Sirs,

Premises: **88-99 & 100-205 Rivermeads, Stanstead Abbots, Ware, Herts.,
SG12 8EL**

Case number: **CAM/26UD/LRM/2014/0005**

Please find enclosed a copy of the LVT decisions for the above case.

Yours faithfully,



**Mrs. V. Roberts
Case Officer**



**First-tier Tribunal
Property Chamber
(Residential Property)**

Case reference	:	CAM/26UD/LRM/2014/0005
Property	:	88-99 & 100-205 Rivermeads, Stanstead Abbots, Ware, SG12 8EL
Applicant	:	The Maltings (Stanstead Abbots) Management Co. Ltd.
Respondent	:	Sinclair Gardens Investments (Kensington) Ltd.
Date of Application	:	2nd May 2014
Type of Application	:	For an Order that the Applicant is entitled to acquire the right to manage the property (Section 84(3) Commonhold and Leasehold Reform Act 2002 (“the 2002 Act”)
The Tribunal	:	Mr. Bruce Edgington (lawyer chair) Mr. David Brown FRICS

DECISION

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1. This Application succeeds and the Applicant therefore acquires the right to manage the property as at the 24th October 2014.

Reasons

Introduction

2. The Respondent accepts that the Applicant is a right to manage company (“RTM”). Such RTM served the Respondent with a Claim Notice on the 20th March 2014 seeking an automatic right to manage the property and giving the 25th April 2014 as the date by which any counter-notice must be served. On the 24th April 2014, the Respondent freehold owner’s solicitors served a Counter-Notice.

Procedure

3. The Tribunal decided that this case could be determined on a consideration of the papers without an oral hearing. Notice was given to the parties that (a) a determination would be made on the basis of a consideration of the papers including the written representations of the parties on or after 2nd July 2014 (which time was extended) and (b) an

oral hearing would be held if either party requested one before that date. No such request was received.

Discussion

4. The counter-notice simply says *"I allege that, by reason of sections 73, 74, 80(3) and 80(4) of (the 2002 Act) on 20th March 2014 The Maltings (Stanstead Abbotts management Co Limited ("the Company") was not entitled to acquire the right to manage the premises specified in the claim notice"*.
5. The lengthy submissions of the Respondent freehold owner detail many cases and attach many case reports. The copy case reports do not include **Assethold Ltd. V 14 Stansfield Road RTM Co. Ltd.**[2012] UKUT 262 (LC); LRX/180/2011. That was a decision of the then President of the Upper Tribunal. He noted the very technical matters raised in that case and dismissed them. As to an alleged defect in the members register, the President said, at paragraph 21 *"...a defect in the register would not be sufficient to show that section 79(5) was not complied with, and indeed it could be insufficient even to raise a doubt as to compliance"*.
6. Part of this case is quoted by the Respondent at page 9 of its submissions but the following comments are omitted. At the end of the judgment, when dismissing the landlord's appeal, the President remarked:-

"It is not sufficient for a landlord who has served a counter-notice to say that it puts the RTM company to 'strict proof of compliance with a particular provision of the Act and then to sit back and contend before the LVT (or this Tribunal on appeal) that compliance has not been strictly proved. Saying that the company is put to proof does not create a presumption of non-compliance, and the LVT will be as much concerned to understand why the landlord says that a particular requirement has not been complied with as to see why the RTM company claims that it has been satisfied."
7. This Tribunal is very concerned that this part of the judgment has not been referred to by the Respondent. Its case has been presented by solicitors who have a positive duty to place all relevant matters before the Tribunal. Instead, they say at the end of their submissions that *"given that there is no evidence of strict compliance, the Applicant's case must fail on the present Notice"*.
8. Throughout its submissions the Respondent sets out a long list of additional grounds for opposing this application. It says that the Applicant did not give 'notice' of the application despite the fact that the Counter-Notice clearly states that unless an application is made the transfer of management will not take place. There is simply no requirement to give notice and the point is therefore time wasting and completely irrelevant.