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

**Case reference** : **LON/00AL/LOA/2013/0004**

**Property** : **84 Eltham Road, London SE12 8UE**

**Applicant** : **84 Eltham Road RTM Company Limited**

**Representative** : **Urban Owners**

**Respondent** : **Nancy Thomas**

**Representative** : **Not applicable**

**Type of application** : **Section 83(4) of the Commonhold and Leasehold Reform Act 2002**

**Tribunal Judge** : **Ms N Hawkes**

**Date of application** : **5.9.13**

**Date and venue of Paper Determination** : **6.2.14 at 10 Alfred Place, London WC1E 7LR**

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**ORDER**

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The tribunal orders that 84 Eltham Road RTM Company Limited acquires the right to manage the premises at 84 Eltham Road, London SE12 8UE on 6<sup>th</sup> February 2013.

## **Background**

1. The applicant seeks an order under section 85(2) of the Commonhold and Leasehold Reform Act 2002 ("the 2002 Act") that it can acquire the right to manage the premises.
2. The order is sought on the basis that the respondent landlord, Nancy Thomas, is not traceable.
3. By directions dated 23.10.13, the tribunal required the applicant to take further steps to trace the landlord. These were taken by the applicant.

## **Facts Found**

4. The applicant is an RTM company incorporated on 1<sup>st</sup> August 2013 as a company limited by guarantee. The objects for which the company was established are to acquire and exercise in accordance with the 2002 Act the right to manage the premises. All qualifying tenants (long leaseholders) of flats in the premises are entitled to become members.
5. A letter dated 14<sup>th</sup> November 2013 indicating that an RTM company had been set up by the leaseholders of the property in order to acquire the right to manage was sent by the applicant's representative to the landlord at 4 Skipsey Avenue, London E6 6HW ("4 Skipsey Avenue"). This is the address shown on the Land Registry title.
6. Letters were also sent to Oakwood Homes Limited which was the mortgagee in possession for Flat 4 and to the Bank of Scotland which was the mortgagee in possession of Flat 3. No response has been received to these letters.
7. Steve Wylie, one of the Directors of Urban Owners, has visited the landlord's last known address at 4 Skipsey Avenue on two separate occasions.
8. The first visit took place on 6<sup>th</sup> November 2013 at 1400 hours and no one answered the door. The second visit took place at 0920 hours on 14<sup>th</sup> November 2013 and a gentleman responded to Mr Wylie's enquiries by informing him that the landlord had never lived at 4 Skipsey Avenue but had been involved with the estate agent when he

had rented the property many years ago. He was unable to confirm the address of the estate agent.

9. Advertisements were placed in the Metro on 10<sup>th</sup> December 2013 and in the Newham Recorder on 11<sup>th</sup> December 2013 requesting a response by 11<sup>th</sup> January 2014. No response has been received to these advertisements.
10. An Official Copy of the Land Register of freehold title TGL234274 dated 9<sup>th</sup> December 20-13 shows the respondent landlord still to be the registered proprietor.

### **The law**

11. Sections 71 -111 of the 2002 Act provide for the right to manage premises by a company. Section 85(2) of the 2002 Act provides for applications from a prospective RTM company when the landlord is not traceable. Regard must be had particularly to section 79(5) so that the membership of the RTM company must include not less than half the qualifying tenants of the flats of the premises.

### **Decision**

12. I am satisfied that it is fair to make this order without an oral hearing.
13. The acquisition date is the date of this order.
14. I am satisfied that the RTM company
  - (i) Meets the requirements of section 79(5) in respect of the number of qualifying tenants and
  - (ii) Would not have been precluded from giving a valid notice of claim to acquire the right to manage but for the fact that the landlord to whom such a claim would have been addressed cannot be found.
15. I am also satisfied that reasonable steps have been taken to trace the landlord.

**Name:** Ms Naomi Hawkes

**Date:** 6.2.14