



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

**Case Reference** : **FC/LON/00BB/HML/2018/0026**

**Property** : **Flat 2, Partridge Square, London  
E6 5LH**

**Applicant** : **London Green (127-132  
Management Limited**

**Representative** : **N/A**

**Respondent** : **London Borough of Newham**

**Representative** : **N/A**

**Types of Application** : **Housing Act 2004**

**Tribunal Members** : **Judge Tagliavini  
Ms S Coughlin MCIEH**

**Date and venue of  
Hearing (paper)** : **10 Alfred Place, London EC4Y 7DR**

**Date of Decision** : **21 January 2019**

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**DECISION**

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## **Decisions of the tribunal**

- I. The tribunal finds that the lease provides for the underletting of premises situate at 2 Partridge Square, London E6 5LH. Therefore, the issue of a licence by the Respondent under Part 3 and Schedule 5(7) and Section 88 of the Housing Act 2004 (selective licensing of other residential accommodation), is required and therefore, valid.**

## **The application**

1. This is an application made by London Green Limited, the managing agent for the 3 storey block comprising 6 flats in which the subject property is situated. The Applicant seeks to challenge by way of an appeal the grant of a licence to the current lessee Mr. Emmanuel Awonaya under the Housing Act 2004 (“the 2004 Act”) and asserts that no licence is required as the lease makes no provision for the underletting of the subject property.

## **The background**

2. By a lease dated 9 October 1987 made between The London Docklands Development Corporation (“The Landlord”), the London Green (127-132) Management Limited (“The Company”) and Paul John Neal (“The Tenant”) a term of 999 years from the 24<sup>th</sup> day of June 1985 was granted to the tenant of Flat Number 132, London Green, Tollgate Road, North Beckton was granted to the tenant and made provision for the management of the property and estate by The Company in accordance with the Sixth Schedule of the lease (The Company’s covenants with the landlord and the tenant).
3. On 6 September 2018, the Respondent issued a Property Licence Number 18/18861/HOSELE under the provisions of section 88 of the Housing Act 2004 valid from 01-March-2018 to 28-Feb-2023 permitting occupation for a maximum of 5 people living s 1 household(s) regardless of age. This licence was granted in respect of Flat 2 Partridge Square which is accepted forms part of block 1-6 Partridge Square, London E6 5LH for which they are the managing agents as The Company under the terms of the lease.

## **The Applicant’s case**

4. The Applicant provided the tribunal with a copy of the lease, correspondence and the Licence granted and its reasons for the appeal. The Applicant asserted that the lease does not allow underletting of the property and therefore it does not agree with the decision to approve a (HMO) licence and referred in the application to the tribunal to Schedule 5, Part 2 HMO licence of the 2004 Act.

5. The Applicant relied upon clause 16 (1) (a) of the lease which states the tenant covenants “*Not to assign transfer underlet or part with possession of any part of the Demised Premises (as distinct from the whole) in any way whatsoever*”. No other grounds challenging the grant of the licence were raised.

### **The Respondent’s case**

6. The Respondent’s evidence comprised a bundle of documents which, included a witness statement of Cleve Jeffers, Senior Licensing Office dated 13.12.2018. Mr. Jeffers stated that Emmanuel Awonaya as the registered lessee had applied for a licence on 27<sup>th</sup> February 2018 under Part 3 of the 2004 Act, for the subject property as it was being let to a single household. As the Respondent was satisfied Mr. Awonaya was the most appropriate person to be granted a licence holder and satisfied he is a fit and proper person, the Respondent served a notice of intention to grant a licence on 9<sup>th</sup> August 2018. No representations were received in respect of this notice and a licence was subsequently granted. The Respondent provided a copy of the Notice of Granting a Licence in Respect of a House in an Area Designated for Selective Licensing, granting a licence to EMMANUEL Awonanaya as licence applicant and London Green (127-132) Ltd as the managing agent in respect of the subject property.

### **The law**

5. Part 3 of the Housing Act 2004 makes provision for the granting of selective licensing of other residential accommodation. The subject property is not designated as an HMO (house in multiple occupation) and therefore Part 2 of the 2004 Act does not apply.

### **The tribunal’s decision and reasons**

6. The tribunal were requested to determine this application on the papers and therefore no oral hearing was held.
7. The tribunal considers that the Applicant has misunderstood the provisions of the 2004 Act under which, this licence is granted. In the application to the tribunal a reference were made to Part 2 HMO licences of the 2004 Act as being the relevant legislation against which the Applicant sought to challenge.
8. Having been provided with a complete copy of the lease (less the Plan) the tribunal finds that clauses relied upon by the Applicant are set out under The Fourth Schedule, Part I (Tenant’s covenants with the Landlord). The tribunal finds that clause (16) is the relevant part of the lease on which the Applicant relies, which states the tenant covenants:

(1)(a) *Not to assign transfer underlet or part with possession of any part of the Demised Premises (as distinct from the whole) in any way whatsoever*

(b) *Not at any time during the Term to underlet or permit the Demised Premises to be underlet except upon the terms that the undertenant shall be liable to pay throughout the term such underlease not less than the aggregate of the rent hereby reserved and the Maintenance Charge*

9. The tribunal finds that the lease makes express provision for the underletting of the whole of the premises as set out in clause (16)(1)(b) of the Fourth Schedule of the lease. The tribunal notes that the subject premises are to be occupied only by 1 household comprising a maximum of 5 persons. The tribunal finds that the subject premises are not a HMO to which the licensing provisions of Part 2 of the 2004 Act apply but comes with the selective licensing provisions as provided for by Part 3 of the 2004 Act.
10. Although not challenged by the Applicant, the tribunal finds that the subject property is located in an area designated for selective licensing by the Respondent. The tribunal also finds that the statutory requirements for the grant of a licence were complied with by the Respondent.
10. Therefore, the tribunal refuses the challenge made by the Applicant to the grant of the licence and confirms that it is a valid licence granted by the Respondent in accordance with its selective licensing provisions.

**Signed: Judge Tagliavini**

**Dated: 21 January 2019**

