



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

**Case reference** : **LON/00BA/LRM/2021/0041**

**HMCTS code  
(paper, video,  
audio)** : **P: PAPERREMOTE**

**Property** : **Flats A, B, C and D, 36 Eveline Road,  
Mitcham, CR4 3LE**

**Applicant** : **Eveline Road RTM Company Limited**

**Representative** : **Philip Mark Bazin,**

**Respondent** : **Assethold Limited**

**Representative** : **Scott Cohen Solicitors Limited**

**Type of application** : **No Fault – Right to Manage**

**Tribunal  
member(s)** : **Judge Tagliavini  
Mr S F Mason BSc(Hons) FRICS**

**Venue** : **10 Alfred Place, London WC1E 7LR**

**Date of decision** : **19 May 2022**

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**DECISION**

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**Covid-19 pandemic: description of hearing**

This has been a remote hearing on the papers which has not been objected to by the parties. The form of remote hearing was [insert the code and description, e.g., P:PAPERREMOTE. A face-to-face hearing was not held because it was not practicable and all issues could be determined on paper. The documents that the Tribunal were referred to are in a bundle of 289 pages, the contents of which have been considered.

## **The tribunal's summary decision**

- (1) The tribunal determines that the applicant Eveline Road RTM Company Limited has acquired the right to manage the property known as 36 Eveline Road, Mitcham CR4 3LE.
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## **The application**

1. This is an application made pursuant to s.84(3) of the Commonhold and Leasehold Reform Act 2002 ('the 2002 Act'). The applicant seeks to manage the subject premises known as 36 Eveline Road, Mitcham CR4 3LE ('the premises'). The said premises comprise 4 flats (A,B,C, and D) in two adjoining converted houses. By a Notice dated 15 September 2021 the applicant sought the right to manage the said premises. In a Counter-Notice dated 10 September 2021 the respondent denied the applicant's right to acquire the right to manage.

## **The issue – the respondent's case**

2. The respondent in its Statement of Case dated 15 March 2022 identified a single issue that remained to be decided by the tribunal, namely does the subject premises comprise a single building for the purposes of the 2002 Act. The respondent contends that the premises comprise of multiple (two) buildings each containing two flats within each building being vertically divided from the other and each building having its own front entrance. Therefore, the applicant is not entitled to acquire the right to manage more than one building; *Triplerose Ltd v Ninety Broomfield Road RTM Co Ltd [2015] EWCA Civ 282*. If the tribunal determines that the premises comprise of more than one building, the applicant's Articles of Association and Claim Notice would be inaccurate and therefore, invalid.
3. In support of these submissions, the respondent relied upon the three different Land Registry numbers relating to a small development of four flats at 36 Eveline Road in Office Copy entries. The respondent also provided a photograph of the subject premises showing the two separate front entrances and a site plan of 36 Eveline Road. The respondent contended there is a vertical division between the two buildings dividing Flats A and B from Flats C and D located in the adjoining but separate building.
4. In a Statement in Reply dated 22 April 2022 the respondent asserted that the question to be answered was whether the respective parts of the premises provide structural support for one another. The respondent stated that there is vertical separation, re-development, and separation of services 'certainly appears to be possible.' The respondent contended

that these matters could be answered by the provision of Expert evidence.

### **The issue – the applicant’s case**

5. The applicant relied on its Statement and Further Particulars as well as a Statement of Reply dated 7 April 2022. In the latter document, the applicant accepted that the application stands or falls on whether the subject premises is a self-contained building or a part of a building within the meaning of s.72(2)(3) of the 2002 Act.
6. The applicant accepted that the subject premises comprises two adjacent terraced houses converted into four flats as evidenced by the application for planning permission and asserted that the 2002 Act cannot have intended a self-contained building/part of a building to be so restricted that a RTM application must be exercised separately in respect of each house in a terrace. The applicant relied upon the case of *41-60 Albert Palace Mansions (Freehold) Ltd v Crafrule Ltd* [2011] EWCA Civ 185, in support of its argument that the argument that the statutory right must only be exercised in respect of the smallest qualifying part of a building has been rejected.

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

7. The tribunal determines that the subject premises known as 36 Eveline Road, Mitcham, CR4 3LE comprise a single building for the purposes of the 2002 Act.
8. The tribunal is satisfied that the applicant has complied with the statutory requirements and therefore is entitled to acquire the right to manage the subject premises.
9. Section 72 of the 2002 Act states:

*(1) This Chapter applies to premises if—*  
*(a) they consist of a self-contained building or part of a building, with or without appurtenant property,*  
*(b) they contain two or more flats held by qualifying tenants,*  
*and*  
*(c) the total number of flats held by such tenants is not less than two-thirds of the total number of flats contained in the premises.*

*(2) A building is a self-contained building if it is structurally detached.*

*(3) A part of a building is a self-contained part of the building if*  
*(a) it constitutes a vertical division of the building,*  
*(b) the structure of the building is such that it could be*  
*redeveloped independently of the rest of the building, and*  
*(c) subsection (4) applies in relation to it.*

*(4) This subsection applies in relation to a part of a building if*  
*the relevant services provided for occupiers of it—*  
*(a) are provided independently of the relevant services provided*  
*for occupiers of the rest of the building, or*  
*(b) could be so provided without involving the carrying out of*  
*works likely to result in a significant interruption in the*  
*provision of any relevant services for occupiers of the rest of the*  
*building.*

*(5) Relevant services are services provided by means of pipes,*  
*cables or other fixed installations.*

*(6) Schedule 6 (premises excepted from this Chapter) has effect.*

10. The tribunal accepts that initially the subject premises comprised two terraced houses, presumably originally with two different addresses (although this was not addressed by the parties). Further, no evidence was provided by the parties to show the extent of structural detachment of the subject premises from the adjacent properties. However, since the application for planning permission under 14/P2928 seeking to convert the two properties into four flats, the subject premises have been known by the single address of 36 Eveline Road and therefore a single building.
11. The tribunal finds that the respondent has consistently treated the subject premises as one building in the obtaining of insurance. The Policy Schedule covering the period 1 August 2020 to 31 July 2021 described the insured premises as '4 flats and the address as 36 Eveline Road, Mitcham, London CR4 3LE. Further, the respondent has treated the subject premises as a single building for the purpose of obtaining of services and when making demands for payment of service charges at the rate of 25% per flat, treated the premises as a single building.

12. The tribunal finds that the respondent has consistently treated the subject premises as a single building with a single address and differs significantly in character from blocks of flats on an estate and characterised as separate buildings for the purposes of the 2002 Act.
13. In conclusion, the tribunal finds the applicant has satisfied the tribunal that it is entitled to acquire the right to manage the subject premises.

Name: Judge Tagliavini

Date: 19 May 2022

### **Rights of appeal**

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the tribunal is required to notify the parties about any right of appeal they may have. If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber), then a written application for permission must be made to the First-tier Tribunal at the regional office which has been dealing with the case.

The application for permission to appeal must arrive at the regional office within 28 days after the tribunal sends written reasons for the decision to the person making the application. If the application is not made within the 28-day time limit, such application must include a request for an extension of time and the reason for not complying with the 28-day time limit; the tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed, despite not being within the time limit. The application for permission to appeal must identify the decision of the tribunal to which it relates (i.e. give the date, the property and the case number), state the grounds of appeal and state the result the party making the application is seeking.

If the tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).