



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

Case reference : **LON/00BH/LRM/2022/0025**

Property : **Flats 1 to 9 De Vere Court, 91 Hoe Street,
London, E17 4SA**

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

Applicant : **De Vere Court RTM Company Limited**

Representative : **The Leasehold Advice Centre**

Respondent : **Assethold Limited**

Representative : **Scott Cohen Solicitors**

Type of application : **Application in relation to the denial of
the Right to Manage**

Tribunal members : **Judge Lumby
Judge Korn**

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

Date of decision : **3 October 2022**

DECISION

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 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 139 pages, the contents of which have been considered.

The tribunal's summary decision

(1) The tribunal determines that the applicant De Vere Court RTM Company Limited acquired the right to manage the property known as Flats 1 to 9, 91 Hoe Street, London E17 4SA on the relevant date.

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 the right to manage the subject premises known as Flats 1 to 9, 91 Hoe Street, London E17 4SA ('the premises'). The said premises comprise nine self-contained flats in a purpose-built block. By a Claim Notice dated 5th April 2022 the applicant sought the right to manage the said premises. In a Counter-Notice dated 17th May 2022 the respondent alleged that the applicant was not entitled to acquire the right to manage on the relevant date.

The issue – the respondent's case

2. The respondent in its Counter-Notice stated that the applicant was not entitled to acquire the right to manage the premises on the basis that the Claim Notice was not given by an RTM Company which complied with Section 79(5) of the 2002 Act.
3. This position is explained more fully in the respondent's Statement of Case dated 15 July 2022. It argues that the applicant's Register of Members is incomplete in respect of Flats 4, 5, 6 and 8. As a result it contends that the applicant has not complied with its Articles of Association and the Companies Act 2006 in the registration of Members and in keeping the Register of Members. This leads it to the contention that either the applicant had insufficient members to comply with section 79(5) of the 2002 Act and/or the Tribunal is unable to assess whether the applicant fulfilled the requirements of that section.
4. In support of these submissions, the respondent relies upon a copy of the Register of Members provided by the applicant. This does not show the full details of the owner of each of Flats 4, 5 and 6 and is missing the second name of the owner of Flat 8.

The issue – the applicant's case

5. The applicant addresses the issues raised by the respondent in its response to the respondent's statement of case dated 18th July 2022. It argues that the respondent was provided with full information to identify the members of the applicant company at the relevant time and is merely relying on the technicality of the display of the Register of Members provided to it. The applicant accepts that there is a self-evident error in that display but contends that the respondent should have sought to clarify the point at an early stage if it was indeed confused by it rather than using it as a basis for

a challenge and indeed allowing the matter to be subject to a formal determination by the tribunal.

6. In support of this position, the applicant has provided a screenshot of the Register of Members which it states clearly shows the full names and details of each of the members.
7. The applicant further argues that the manner in which the Register of Members is displayed should not determine the success or failure of the acquisition of the right to manage and that there is nothing in the 2002 Act to indicate otherwise.

The tribunal's decision and reasons

8. The tribunal is satisfied that the applicant had sufficient members at the date of its Claim Notice for the purpose of section 79(5) of the 2002 Act.
9. The tribunal is also satisfied that the applicant has complied with the statutory requirements and therefore was entitled to acquire the right to manage the subject premises on the relevant date.
10. Sections 79(3) to (5) of the 2002 Act state:

(3) The claim notice must be given by a RTM company which complies with subsection (4) or (5).

(4) If on the relevant date there are only two qualifying tenants of flats contained in the premises, both must be members of the RTM company.

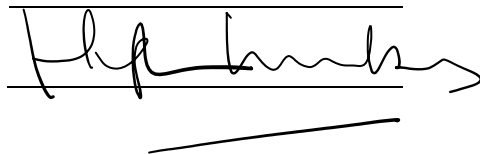
(5) In any other case, the membership of the RTM company must on the relevant date include a number of qualifying tenants of flats contained in the premises which is not less than one-half of the total number of flats so contained.

11. The respondent has failed to show that there is anything in the relevant legislation to support its challenge to the Claim Notice.
12. In any event, we are satisfied that it is clear who the members were at the relevant time from the Claim Notice and the screenshot provided by the applicant and that there is no substance to the respondent's challenge.
13. In conclusion, the tribunal finds that the applicant has satisfied the tribunal that it is entitled to acquire the right to manage the subject premises.

Name: Tribunal Judge Lumby

Date: 7th October 2022

Signed:



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).