



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

Case Reference : **MAN/32UE/HTA/2019/0003**

Premises : **Berkeley Court
Carre Street
Sleaford
Lincolnshire
NG34 7TT**

Applicant : **Berkeley Court
Residents' Association**

Representative : **Burton & Co, Solicitors**

Respondent : **Simons Homes Limited**

Representative : **N/A**

Type of Application : **Application for a certificate of
recognition of a tenants' association**

Tribunal : **Judge J Holbrook**

**Date and venue of
Hearing** : **Determined without a hearing**

Date of Decision : **29 April 2020**

DECISION

DECISION

The Tribunal grants a certificate of recognition in the form set out in the Annex hereto.

REASONS

Background

1. On 15 November 2019, the Tribunal received an application for a certificate of recognition for Berkeley Court Residents' Association, being a recently established tenants' association in relation to premises known as Berkeley Court, Carre Street, Sleaford, Lincolnshire NG34 7TT ("the Premises").
2. I have not inspected the Premises, but I understand them to comprise a purpose-built development of 19 residential units held by members of the tenants' association on individual long leases.
3. The application was made under section 29 of the Landlord and Tenant Act 1985 ("the Act"). The Respondent is Simons Homes Limited, the freehold owner of the Premises (and the landlord under the long leases).
4. On 28 January 2020, the Tribunal gave directions for the conduct of this matter. The parties were informed that the application would be determined on the papers unless either party gave notice requiring an oral hearing to be arranged. No such notice was received and I have therefore determined this application upon consideration of the papers supplied by the Applicant. No representations have been received from the Respondent.

Law

5. An association which is a "recognised tenants' association" as defined by section 29(1) of the Act has certain rights concerning the management of the premises concerned: it has the right:–
 - to propose names of contractors for tender in a statutory consultation process carried out by the landlord under section 20 of the Act;
 - to be sent copy estimates obtained for the purposes of such a consultation process;
 - to ask for a summary of costs incurred (section 21);
 - to inspect relevant accounts and receipts (section 22);
 - to ask for a written summary of insurance cover; and
 - to ask to be consulted about appointment or re-appointment of a managing agent (section 30B).

6. An association of qualifying tenants may be recognised for these purposes by notice given by the landlord. Alternatively, it may be recognised by a certificate given by the Tribunal under section 29(1)(b)(i) of the Act.
7. In deciding whether to grant a certificate of recognition, the Tribunal must apply the Tenants' Associations (Provisions Relating to Recognition and Provision of Information) (England) Regulations 2018 ("the Regulations").
8. Regulation 3 lists the following matters to which the Tribunal must have regard when deciding whether to give a certificate of recognition:
 - the composition of the membership of the tenants' association;
 - the tenants' association's rules regarding membership, including whether tenants who are not qualifying tenants are entitled to become members;
 - the tenants' association's rules regarding decision making;
 - the tenants' association's rules regarding voting;
 - the extent to which any fees or charges payable in connection with membership of the tenants' association apply equally to all members;
 - the extent to which the constitution of the tenants' association takes account of the interests of all members;
 - the extent to which the tenants' association is independent of the landlord of the dwellings to which the association relates;
 - whether the tenants' association has a chairperson, secretary and treasurer;
 - whether the constitution of the tenants' association may be amended by resolution of the members and the rules regarding amendment;
 - whether the tenants' association's constitution, accounts and list of members are kept up to date; and available for public inspection; and
 - the extent to which the association operates in an open and transparent way.
9. Regulation 4 provides that the Tribunal must not give a certificate of recognition in certain circumstances: where the tenants' association represents fewer than 50% of the qualifying tenants; where a previous certificate is still in force; and where the Tribunal is not satisfied that the constitution and rules of the tenants' association are fair and democratic.

Consideration

10. I note that 16 of the 19 leaseholders of the Premises have given written consent to membership of the association (and I gather that the other three leaseholders have given verbal consent).
11. I am satisfied that there are no circumstances which prevent the Tribunal giving a certificate of recognition in this case. Indeed, having

reviewed a copy of the association's rules and constitution and having had regard to the matters specified in Regulation 3, I am satisfied that it is appropriate to give such a certificate, and that the association should thereby be recognised under the Act for a period of five years.

ANNEX

CERTIFICATE OF RECOGNITION

This certificate is given by the Tribunal under section 29(1)(b)(i) of the Landlord and Tenant Act 1985 (“the Act”).

Berkeley Court Residents’ Association is hereby certified to be a recognised tenants’ association for the purposes of the provisions of the Act relating to service charges.

This certificate shall continue in force for a period of five years from the date hereof unless cancelled by the Tribunal before the end of that period.

Signed: J W Holbrook
Judge of the First-tier Tribunal

Dated: 29 April 2020