



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

**Case Reference** : **MAN/00CX/HTA/2020/0002**

**Property** : **Ashdown Court, Bradford Road,  
Shipley BD18 3PL**

**Applicant** : **Ashdown Court Residents'  
Association (Ashdown RA)**

**Respondent** : **R G Securities (No 2) Limited**  
**Representative** : **Pier Management Limited**

**Type of Application** : **Landlord & Tenant Act 1985 – Section 29**

**Tribunal Member** : **Laurence Bennett (Deputy Regional Judge)**

**Date of determination** : **8 December 2020**

**Date of Decision** : **9 December 2020**

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**DECISION**

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## **Application**

1. Ashdown Court Residents' Association (ACR) applies to the Tribunal under Section 29 of Landlord and Tenant Act 1985 (the Act) for recognition as a Tenants' Association.
2. The Respondent is the owner of the Freehold of the Property.

## **Preliminary**

3. The application was received by the Tribunal on 19 August 2020. It is signed by Mr Michael Lock Secretary of ACR.
4. The application form states the name of the Landlord as Inspired Property Management Limited (IPM). The Respondent's submission notes that IPM is a firm of Managing Agents appointed by the Landlord, otherwise no point is taken. The Tribunal accepts the application has come to the notice of the Respondent Freeholder who has been able to participate. Accordingly, the name of the Respondent is amended.

## **The Property**

5. The Property comprises 17 Leasehold apartments and 7 Leasehold garages within a self-contained block.

## **Background**

6. The application is accompanied by a single page document entitled Management Committee Structure and Protocols which states "The Association would be run by a Management Company elected at the Annual General Meeting..." and sets out procedures and quorum for the Committee.
7. An additional document lists the 17 apartments (there is no number 13) and states that "All the above Members have been appraised of the Constitution of ACR and have agreed with its aims and principles and have pledged to abide by them."
8. The Applicant has included correspondence addressed to IPM seeking recognition as a Tenants' Association. Correspondence also concerns property management and service charge issues. IPM's response included an offer to publicise the intention to take form a Residents' Association "To all Residents and Leaseholders."
9. Individual letters and forms entitled "Ashdown Court Residents' Association (ACR) Membership" have been signed by some individuals. It is not clear whether they are owners of registered leases or occupiers of the apartments stated.
10. On 16 October 2020, Judge Holbrook made directions for determining the application.

11. In compliance with directions both parties have provided further submissions.
12. Neither the Applicant nor the Respondent requested an oral hearing.
13. The Tribunal convened without the parties on 8 December 2020 to determine the application on the papers.

### **Law**

14. Section 29 of the Act defines a recognised Tenants' Association and provisions for recognition.
15. The Act further provides that the Secretary of State may make regulations setting the procedure and the matters to which regard is to be had.
16. The relevant Regulations are the Tenants' Associations (Provisions relating to recognition and provision of information)(England) Regulations 2018
  - The rules of the Association should be fair and democratic
  - Membership should not be less than 50% of those eligible
  - Members must consist of those paying a variable service charge
  - One vote per individual leased unit
  - No more than one Association per block

### **Applicants' submissions**

17. The Applicant's submissions include continuing correspondence with IPM regarding management and service charge issues and discussion regarding recognition of the Residents' Association. This includes IPM's response dated 27 August 2020 stating: "They have not declined your wish to set up a Residents' Association only to provide you with advice on criteria and requirements that need to be met ...." It includes a weblink to further information. Correspondence culminates with the Applicant's stated intention to apply to the Tribunal.

### **Respondent's submissions**

18. The Respondent's submissions clarify the ownership of the Freehold premises and identifies the relevant statutory and regulatory provisions. It is confirmed that no previous recognition certificate has been given.
19. The Respondent accepts that the membership comprises more than 50% of Leaseholders as 14 of 17 qualifying tenants are members although comments are made about those named in respect of apartments 4, 6 and 14 which are assumed sublet and that those individuals may not be qualifying tenants.
20. The Respondent points to the requirements of Regulation 3 of the 2018 Regulations and the absence of relevant provisions within the Management Committee Structure and Protocols.

21. The Respondent submits that on that basis the application for recognition should be denied although it comments that “the Landlord has not necessarily unreasonably withheld volunteering recognition of tenants for association but ..... it has stated its requirements for granting recognition and to assist the Applicant has referred to the guidance and model rules published by ARMA.
22. The Respondent has appended a sample lease and office copies of its Freehold interest in the Property.

### **Determination**

23. This application concerns the recognition of a Tenants’ Association. Whilst the Applicant has submitted correspondence relating to management issues this is not relevant to the application. Individual Leaseholders are in a position to make applications to the Tribunal in respect of such matters under Landlord & Tenant Act 1985.
24. The statutory and regulatory provisions for recognition of a Tenants’ Association are set out above. The Respondent’s submissions analyse the documentation submitted by the Applicants by reference to those requirements.
25. The constitution and rules of ACR submitted by Mr Lock appear limited to a single page largely detailing procedures of the Executive Committee of the Association. They do not extend to the other requirements set out within the Regulations.
26. It is not clear why the Association has not followed what appears appropriate advice from IPM pointing to accessible information regarding the requirements, however, they have not. The documents submitted do not evidence matters to which the Tribunal must have regard and irrespective of any query about the members subscribing to the organisation, the Tribunal finds as presented it cannot be recognised. Accordingly, the application is refused.

### **Order**

27. Ashdown Court Residents’ Association is not recognised as a Tenants’ Association under Section 29 of the Landlord & Tenant Act 1985.

**Laurence J Bennett**  
**Tribunal Judge**  
**9 December 2020**