



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

**Case Reference** : **MAN/16UG/LOA/2020/0001**

**Property** : **The Mews, Fernleigh Road, Grange-Over-Sands LA11 7HU**

**Applicant** : **The Mews (Fernleigh Road) RTM Company Ltd**

**Represented by:** **Mr Kieron Oliver - Director**

**Respondent** : **Brookworth Securities Limited**

**Type of Application** : **Commonhold & Leasehold Reform Act 2002 – Section 85(2)**

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

**Date of Determination** : **24 March 2021**

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**DECISION**

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## **Application**

1. The Mews (Fernleigh Road) RTM Company Limited applies for a determination under Paragraph 85(2) of the Commonhold and Leasehold Reform Act 2002 (the Act) that it was entitled to acquire the right to manage The Mews, Fernleigh Road, Grange-Over-Sands LA11 7HU (the Property).
2. The Property is stated by the Applicant to be an Old Blacksmith Building built into a hill face containing 4 flats, each having their own entrance.
3. The Applicant is a company formed to acquire the right to manage the Property.
4. Following invitation to the Lessees of all flats to participate in the right to manage and notices to them under Section 78 of the Act, a copy of the Tribunal Application was sent to each qualifying tenant by letter dated 7 October 2020.
5. A copy of the Freehold Title number CU106439 dated 12 July 2020 notes that the Proprietor is Brookworth Securities Limited. That Company is not listed on the Company Register nor can it be found on a Company search.
6. The application was received by the Tribunal on 19 October 2020. On 6 January 2021, Regional Surveyor Walsh made directions. These included:

In order to satisfy the Tribunal the Applicant will provide a statement of case

- a. Setting out in full the steps taken to find the missing Landlord or the evidence to confirm that the Landlord Company has been either dissolved or was never incorporated.
  - b. Evidencing that the requirements of section 78, 79 and 85 (3) have been complied with.
  - c. Showing that there are no parties to the leases otherwise than Landlord and Tenants.
  - d. Describing the premises and the manner in which they have previously been managed.
7. The Applicant provided further documentation including a statement of case and supporting documents in compliance with directions.
  8. The Tribunal convened on 24 March 2021 without the parties to make its determination.

## **The Law**

9. The relevant law is found in Sections 71 to 113 in Chapter 1 of Part 2 of the Act.
10. Section 74 sets out the persons entitled to be members of a right to manage company. Section 75 specifies who is a qualifying tenant of a flat within the relevant premises. Section 78 makes provision for the notice that must be given by an RTM company to each person who is a qualifying Tenant.
11. Section 79(6) states that the claim notice must be given to each person who on the relevant date is a Landlord under a Lease of the whole or any part of the premises. The relevant date is stated by Section 79(1) as: "The date on which notice of the claim is given."

12. Section 85 contains provisions where an RTM Company cannot find or ascertain the identity of any of the persons to whom the claim notice would be required to be given by Section 79(6).
13. Section 90(6) states that where an order is made under Section 85 the acquisition date is the date specified in the order.

### **Evidence and Submissions**

14. The Applicant's evidence and submissions are referred to above. The Applicant has detailed attempts to trace the Landlord and/or other interested parties.

### **Tribunal's conclusions**

15. I am satisfied that the Applicant is a Company properly formed to acquire the Right to Manage and that an invitation to participate has been given to all persons entitled. It is observed that the requisite majority of those persons are members of the Company.
16. I accept that the Landlord of the Leases of the flats within the Property is no longer in existence although it is observed that the Land Register has not been amended.
17. The Applicant having complied with directions made by the Tribunal, I am satisfied there are no other steps determined proper for the purpose of tracing relevant persons.
18. I conclude it appropriate that the Applicant RTM Company shall acquire the Right to Manage the Property.

### **Order**

19. The Tribunal determines that the Applicant is entitled to the right to manage the Property on the date of this order.

**Laurence J Bennett**  
**Tribunal Judge**  
**24 March 2021**