



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

Case reference : LON/00AU/LRM/2024/0003

Property : 656 Holloway Road, N19 3NU

Applicant : 656 Holloway Road RTM Company Ltd

Representative : N/A

Respondent : Assethold Ltd

Representative : Scott Cohen Solicitors Limited

Type of application: Application for a determination that the RTM Company was entitled to acquire the Right to Manage

DETERMINATION

(C) CROWN COPYRIGHT

1. In this case the Applicant, 656 Holloway Road RTM Company Limited (“The Applicant”) seeks a determination that they are entitled to acquire the Right to Manage pursuant to the no fault RTM regime under Chapter 1 of the Commonwealth and Leasehold Reform Act 2002. The application related to premises at 656 Holloway Road,N19 3NU (“The premises”). The Respondent , Assethold Limited (“The Respondent”) was originally opposing the application but by an email dated 5th September 2024 indicated that they conceded it. The proceedings have not been withdrawn since then so this determination has been made notwithstanding the concession.

2. The Applicants served a claim notice on 8th November 2023. In the notice they claimed they had the Right to Manage. The Respondents served a counternotice on 14th December 2023 in which they challenged the entitlement to the Right to Manage. In submissions they claimed that the premises had substantial non- residential parts. Paragraph 1 of Schedule 6 to the Act excludes buildings that consist of over 25% commercial rather than residential usage. Neither party had actually measured the building despite making confident claims in opposing directions.
3. In directions the Respondents were ordered to instruct a surveyor to carry out the measurements. After some delay Simon Levy Associates produced the report on 2nd September 2024. The report found that the gentleman's hair dressing salon on the ground floor had an internal floor area which covered 19.72% of the entire building. Unsurprisingly the Respondents then conceded the application on 6th September 2024. The concession was well made because the Applicants are entitled to the Right to Manage.
4. The Applicants seek costs pursuant to Rule 13 of the Tribunal Procedure (First Tier Tribunal) (Property Chamber) Rules 2013. If they genuinely intend to pursue such an application they need to put their application in a proper form so that the Respondent has a fair opportunity to respond to it. At first blush a dispute in which neither party were properly equipped with evidence that was essential in this sort of application does not seem to meet the strict criteria in Willow Court Management Co (1985) Ltd v Alexander Sinclair v 231 Sussex Gardens Right to Manage Ltd Stone v 54 Hogarth Rd, London SW5 Management Ltd [2016]UKUT 290 (LC).

Judge Shepherd

25th September 2024

ANNEX - RIGHTS OF APPEAL Appealing against the tribunal's decisions

1. A written application for permission must be made to the First-tier Tribunal at the Regional tribunal office which has been dealing with the case.
2. The application for permission to appeal must arrive at the Regional tribunal office within 28 days after the date this decision is sent to the parties.
3. 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.
4. The application for permission to appeal must state the grounds of appeal, and state the result the party making the application is seeking. All applications for permission to appeal will be considered on the papers

5. Any application to stay the effect of the decision must be made at the same time as the application for permission to appeal.