



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

Case reference : **LON/00BJ/LRM/2024/0006**

Property : **2 Sisters Avenue, London, SW11 5SG**

Applicant : **2 Sisters Avenue RTM Company Ltd**

Representative : **The Leasehold Advice Centre (Mr Philip Bazin)**

Respondent : **Assethold Ltd**

Representative : **Mr Ronni Gurvits**

Type of application : **Application in relation to the denial of the Right to Manage under s.84(3) of the Commonhold and Leasehold Reform Act 2002**

Tribunal members : **Judge Rosanna Foskett, Ms Jane Mann**

Date of Decision : **24 June 2024 (on the papers)**

DECISION

DECISION

1. The Tribunal determines that the Applicant RTM company was entitled to acquire the Right to Manage the property known as 2 Sisters Avenue, London, SW11 5SG (“the premises”) on the day on which the Notice of Claim was given on 1 December 2023.

BACKGROUND

2. By a notice of claim dated 1 December 2023 and sent on 7 December 2023 by first class post and email, the Applicant gave notice to the Respondent (which is

the freeholder of the premises¹) that it intended to acquire the Right to Manage the premises on 15 April 2024. The Notice of Claim was sent by email to all qualifying leaseholders on 7 December 2023.²

3. By a counter notice dated 12 January 2024,³ the Respondent, acting at that point by solicitors, disputed the claim alleging that the Applicant had failed to establish compliance with section 78(1) and section 79(2) of the Act, because the notice of invitation to participate was not given to each person required by section 78(1) and a claim notice was not given to each person required by section 79(2).
4. The Tribunal received an application under section 84(3) of the Act dated 20 February 2024 for a decision that, on the relevant date, the applicant RTM company was entitled to acquire the Right to Manage the premises.
5. The Tribunal gave directions on 13 March 2024 for the determination of the matter. The single issue to be decided (as explained in those directions) is whether on the date on which the notice of claim was given, the Applicant was entitled to acquire the Right to Manage the premises specified in that notice.
6. As neither party requested an oral hearing the application was determined on the papers provided in the form of an e-bundle of 166 pages.
7. It is noted that the Respondent did not provide a Statement of Case/legal submissions/documents by the deadline set out in the directions (15 April 2024) or at all.
8. The Respondent was represented by solicitors until sometime in early 2024. The Respondent's director, Mr Gurvits, is also a qualified solicitor.

REASONS FOR DECISION

9. The premises comprise a standalone residential building (which, from the photograph in the e-bundle looks to be Victorian) which has been converted into six self-contained residential flats (Basement Flat and Flats A-E).
10. All six flats have been sold on 99-year leases.
11. The Respondent is the freeholder of the premises.
12. At the date on which the Applicant RTM company was formed (31 July 2023), the registered proprietors of four of the six (Basement Flat and Flats A, D and E) became members of the company.⁴ At that date, it appears to be the case that the registered proprietors of Flats B and C had sold their flats and the new registered proprietors were awaiting registration at HM Land Registry.⁵

¹ See Office Copy Entry at page 127 of the e-bundle.

² See page 85 of the e-bundle.

³ See counter notice at page 99 of the e-bundle, incorrectly dated 12 January 2014 which is assumed to be a typographical error for 12 January 2024.

⁴ See Register of company members at page 22 of the e-bundle.

⁵ This is set out in the Applicant's Statement of Case at paragraph 2 (page 17 of the e-bundle) and has not been challenged.

13. Notices of Invitation were served on the two non-participating flats (Flats B and C) on 17 October 2023, with the Memorandum and Articles of Association of the Applicant RTM company being attached. Service was effected:⁶
 - a. In respect of Flat B on:
 - (i) “Julia Zlotkowska (or the Qualifying Leaseholder if Different)”
 - (ii) “The Lessee of Flat B”
 - (iii) “Andrew John Hughes and Natahs Jalal Khatib (or the Qualifying Leaseholder if Different)”
 - b. In respect of Flat C on:
 - (i) “Avvrax Property Management Ltd (or the Qualifying Leaseholder if Different)”.
14. No responses have ever been received from Flats B and C.
15. The Applicant has asked the Respondent to clarify whether it in fact agrees that the Applicant was entitled to acquire the Right to Manage or whether it pursues its objection and, if so, on what ground(s) because those are not explained in the counter-notice. No reply has been received.
16. The Tribunal finds that the two provisions of the Act relied on by the Respondent were complied with by the Applicant on the basis of the documents provided in the e-bundle.
17. In addition to the Tribunal’s rejection of the Respondent’s position, the Tribunal also considers the Respondent’s conduct from a case management point of view to have resulted in a waste of the parties’ time and resources and that of the Tribunal’s. It has been on notice of the Applicant’s position for some time (including having the benefit of legal representation in the early stages) and yet it chose to take no action in clarifying its position or providing any evidence or submissions in support of its position. The Applicant’s statement of case put the Respondent on notice that the Applicant would seek reimbursement of the application and hearing fees and the Respondent has failed to take the opportunity since then to make any submissions on that application. The Tribunal considers it appropriate to order the reimbursement of the application and hearing fees (if any) by the Respondent to the Applicant pursuant to rule 13(2) of the Tribunal Procedure (First-Tier Tribunal) (Property Chamber) Rules 2013.

**Name: Judge Rosanna Foskett, Ms
Jane Mann**

Date: 24 June 2024

⁶ Certificates of posting appear at pages 23-25 of the e-bundle.

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).