

RESIDENTIAL PROPERTY TRIBUNAL SERVICE

Ref Lon/00AZ/LRM/2007/0008

LEASEHOLD VALUATION TRIBUNAL**DECISION ON APPLICATION UNDER
S.84 (3) OF THE COMMONHOLD AND LEASEHOLD REFORM
ACT 2002**

Property 175 Dartmouth Road London Se26 4RO

**Applicants/
Tenants** 175 Dartmouth Road RTM Company Limited
**Respondents/
Landlord/Tenant** Sinclair Gardens Investments (Kensington)Limited

Application To determine, the validity of a claim notice served by
the Applicants under section 79 of the Commonhold
and Leasehold Reform Act 2002

Tribunal Ms M Daley Chairman LLB. Hons
Mr. D. Banfield FRICS
Mrs. R Turner BA, JP

Date of Hearing 26 July 2007

Appearances
Mr. L Dorsett-Director
Mr. D Fisher- Director
Ms A Thorne-Director
Ms S Armstrong- Director (On behalf of the
Applicants)

The Respondent did not appear and was not
represented

The Hearing

At the hearing the Tribunal were presented with a copy of letter from Chevalier & Co. dated 23 July 2007, which referred to a letter dated 4th July 2007, the letter stated -:*Prima Facie it now appears that if a new Notice of Claim was served today that the Respondent would admit that the RTM company was entitled to exercise the right to manage.*

Our Clients will agree that the Company is entitled to exercise the right to manage if the Company agrees in writing to pay their costs of the Application to the Leasehold Valuation Tribunal."

The Tribunal were informed by Mr. Fisher that the background to this letter, was that on the 4th July 2007 he had sent a letter to the Solicitors, for the Landlord, advising them that Antoinette Thorne had now applied to join the RTM company and enclosing a copy of her application.

Ms Thorne was present at the hearing, and The Tribunal were satisfied that Ms Thorne had been notified of the claim for the Right to manage, and had consented to the claim(and was now a director of the Right to Manage Company).

The Tribunal were satisfied that by the letter dated 26.7.07, the Landlord's Counter-Notice had effectively been withdrawn, and the only issue before the Tribunal was the question of the cost of the application.

The Decision of the Tribunal

- 1) Section 88 of the Commonhold and Leasehold Reform Act 2002 provides, that the RTM is liable for the reasonable cost incurred by a person who is a landlord under a lease. In consequence of a claim notice given by the company in relation to the premises.

- 2) The only circumstances in which the RTM company are liable for the cost of the Tribunal are where the claim has been dismissed. (section 88(3).
Which did not occur in this claim.
- 3) The Tribunal determine that the RTM company are liable for the Landlord's cost, associated with their enquiries concerning the validity of the claim notice and any correspondence associated with this issue.
- 4) The Tribunal determine that, the RTM company have succeeded in their claim and are not liable for any other cost of the Leasehold Valuation Tribunal hearing.
- 5) In accordance with section 88(4), if the parties are unable to agree the cost they are at liberty to apply to the Tribunal for a determination of the cost.

Signed.....*Mobley*

Chair

Dated.....*26th July 2007.*