

H21



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

Case Reference : **LON/00AM/LRM/2014/0006**

Property : **10 Alvington Crescent London E 8**

Applicant : **10 Alvington Crescent RTM
Company Limited**

Representative : **Urban Owners Limited**

Respondent : **Assethold Limited**

Representative : **Conway & Co Solicitors**

Type of Application : **Application for a declaration of the
Right to Manage**

Tribunal Members : **Judge E Samupfonda
Mr M Taylor FRICS**

Date and venue : **29 April 2014
10 Alfred Place, London WC1E 7LR**

Date of Deciscion : **29 April 2014**

Decision

1. The tribunal has received an application under section 84(3) of the Commonhold and Leasehold Reform Act 2002 ("the Act").
2. By a claim notice dated 8 January 2013 [sic] the applicant gave notice that it intends to acquire the Right to Manage the premises on the relevant date.
3. By counter notice dated 7th February 2014, the respondents disputed the claim alleging that the applicant had failed to establish compliance with sections 72 (1), 73(2), 79(6) 80(2), 80 (8) and 80(9) of the Act. They confirmed in their statement of case that they were no longer pursuing section 79(6)
4. At the case management conference held on 28 February 2014, the tribunal identified that the single issue for determination was 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 the notice. It was also directed that this matter be determined on the basis of written representations.
5. In accordance with those directions both parties submitted their statements of case.
6. The Respondents allege that the claim notice is invalid for a number of reasons as follows: it failed to comply with section 80(8) and (9) in that it was signed by its company secretary and not in accordance with the Companies Act 2006, it failed to comply with section 73(2) because the premises have not been correctly identified in that the Freehold title refers to 10 Alvington Crescent London E8 2NW whereas the articles of association describe the premises as "Flats A, B and C 10 Alvington Crescent London E8 2NW." They argue that section 80(2) has been breached for the same reasons that the inaccurate description of the premises could lead to uncertainty as to the rights and obligations of the RTM company. Under Section 72(1) the Respondents argue that "the premises specified by the claim notice are the leasehold flats themselves contained in the Building which are not by themselves a self contained part of a building."
7. The Applicant's written representations essentially contend that the claim notice is valid because; it complies with the Right to Manage (Prescribed Particulars and Forms)(England) Regulations 2010; the Companies Act 2006 is not relevant as there is no reference to it the Regulations; the case of Hilmi & Associates Ltd v 20 Pembridge Villas Freehold Limited [2010] EWCA Civ 314 relied upon by the Respondent was not relevant as it dealt with matters under the Leasehold Reform Housing and Urban Development Act 1993; the Upper Tribunal in the decision of Assethold Ltd v 14 Stansfield Road RTM Company Limited [2012] UKUT 262(LC) held that a claim notice is only required to be signed by an individual who has authority of the company and finally the Applicant referred the

tribunal to previous tribunal decisions in which the Respondent had raised similar arguments which were rejected by those tribunals. It was accepted that the claim notice should have been dated 8 January 2014 instead of 2013 which the Applicant described as a simple typo covered by section 81 of the Act. The Applicant did not accept that there was a lack of clarity in the description of the premises.

8. We have considered this case on the basis of the written submissions only and we reject the Respondent's contentions in their entirety. The tribunal prefers the submissions made on behalf of the Applicants. Dealing with the issue of the signature on the claim notice, the claim notice was signed by S Charles on behalf of Urban Owners Ltd Company Secretary. The form states that it is "Signed by authority of the Company." The tribunal agrees with the previous tribunal decisions referred to by the Applicants. It is also our view that the Companies Act 2006 is not relevant to the provisions of the 2002 Act, as it is not mentioned as a requirement in that Act. Furthermore the tribunal relies on the decision of the Upper Tribunal in *Assethold v Stansfield* in which George Bartlett QC found that "it is sufficient that the person signing "by authority of the company" does in fact have authority" and in this case, the Respondents have not argued otherwise.
9. With regards to the description of the premises, we find that describing the premises as Flats A, B and C, 10 Alvington Crescent London E8 2NW sufficiently identifies the premises and satisfies the requirements of section 73(2) of the Act.
10. We accept that there was an inaccuracy in the date "2013" and that it can be cured by section 81 and no prejudice has been caused.
11. In the circumstances the tribunal decided that the claim notice was valid and therefore the Applicant was entitled to acquire the right to manage the premises on the relevant date.