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

Case reference : LON/00AN/LVT/2017/0001

Property : Romney Court, Shepherds Bush
Green, London W12 8PY

Applicant : Treeview Trading Ltd

Representative : Hallmark Property Management Ltd

Respondents : All lessees of 70 flats

Type of application : Variation of all leases

Tribunal : Judge Nicol

Date of decision : 3rd July 2017

DECISION

Decision of the Tribunal

The application is struck out for lack of jurisdiction.

Reasons

1. The Applicant is the freehold owner of the subject property, a 6-storey purpose-built block of 70 flats with an additional three flats recently built on the roof area. The leases of the existing flats apportioned the service charges by a fixed percentage. How those percentages were calculated is not known and they appear not to add up to 100%. Further, the new flats should arguably pay their fair share. In these circumstances, the Applicant has proposed that all the leases be varied to allow for apportionment calculated on floor area which would result

in a reduction in the service charge proportions for the majority of lessees.

2. On 6th January 2017 the Applicant applied under sections 37 and 38 of the Landlord and Tenant Act 1987 (attached to the Tribunal's directions of 31st March 2017) for the leases to be varied accordingly. Unfortunately for those who have participated in this application, it must be dismissed for two reasons:
 - (a) As the Applicant was warned by the Tribunal's letter dated 15th June 2017, the consent from the lessees to the lease variations must be obtained before the application is made to the Tribunal: *Simon v St Mildreds Court Residents Association Ltd* [2015] UKUT 0508 (LC). In the bundle of relevant documents supplied by the Applicant are forms and emails from 37 lessees consenting to the lease variations. They all post-date the application. The Applicant did not respond to the Tribunal's letter by the deadline of 30th June 2017.
 - (b) As the Applicant was also warned in the Tribunal's directions of 31st March 2017, under section 37(5)(b) at least 75% of lessees must consent. 37 is less than 75% of 70. The Applicant did not set out a list of the relevant lessees in a schedule, which would have been useful, but the Tribunal has to work with the evidence in front of it.
3. This decision does not prevent the Applicant from re-applying once it has obtained evidence of a sufficient number of lessee consents.

Name: NK Nicol

Date: 3rd July 2017

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).