



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

Case Reference : CHI/29UL/LRM/2019/0003

Property : 1 Priory Gardens, Folkestone, Kent CT20
1SW

Applicant : 1 Priory Gardens RTM Company Limited

Representative : Leasehold Doctors

Respondents : Rochelle Susan Godden

Representative : Girlings Solicitors

Type of Application : Application to determine whether on the
relevant date the RTM Company was
entitled to acquire the Right to Manage

Tribunal Member(s) : Judge D. R. Whitney

**Date and Venue of
Hearing** : Determination on Papers

Date of Decision : 13th September 2019

DECISION

The Application

1. The Applicants are a Right to Manage Companies formed for the purpose of acquiring the right to manage of 1 Priory Gardens, Folkestone, Kent CT 20 1SW.
2. A Notice of Claim was served upon the Respondent freeholder dated 25th April 2019. The Respondent served Counter Notice dated 22nd May 2019 disputing the company's entitlement to exercise the Right to Manage.
3. Applications were received by the tribunal dated 3rd July 2019 and directions were given dated 24th July 2019. It would appear that the Respondent has failed to engage with the process and no statement of case has been filed by them
4. The Applicant served the Tribunal with a hearing bundle of documents. References in [] are to pages in the hearing bundle.

The Law

5. The relevant law to this application may be found in sections 72, 78, 79, 80, 96 and 97 of the Commonhold and Leasehold Reform Act 2002 ("the 2002 Act").

Discussion

6. The tribunal in reaching its decision has had regard to all of the documents within the bundle. Most particularly the Notice of Claim[17-22] and the Counter Notice and covering letters [23-26].
7. The counter notice itself simply asserts that the Applicant was not entitled to acquire the right to manage by reason of section 79(5) of the 2002 Act. The covering letter sent to the Applicant [24] asserts that the Notice has not been given by a qualifying majority. The Respondents solicitor asserts that the membership of the Applicant company should include at least three qualifying tenants and it does not.
8. The Applicant's representative has filed "Applicants Comments" [27-28]. This document asserts the building consists of 6 flats and at the date of claim the owners of 3 flats were members although by the date of application 4 leasehold owners were members. Copies of the register and the forms completed by each are included within the bundle [30-34]. Official Copy of the Register Entries of the freehold title are included [36-37] which confirm the Respondent owns the freehold and the title is subject to 6 leasehold entries.

Determination

9. The Respondent appears to suggest that the membership of the Applicant company is less than one-half of the total number of flats. No further explanation has been given by the Respondent. The tribunal is satisfied that the respondent has been given opportunity to set out any further matters she wishes to bring to the tribunal's attention.
10. On the evidence within the bundle and as referred to above the tribunal is satisfied that the Applicant RTM company did at the date of service of the Notice have the right under the 2002 Act to acquire the Right to Manage from 13th September 2019.
11. The tribunal is satisfied on the evidence that the Notice of Claim was given by three qualifying tenants who were members of the company at the date of service of the notice. Given the building appears to consist of 6 leasehold flats this number is one-half of the flats and section 79(5) of the 2002 Act is satisfied.
12. The Applicant is entitled to exercise the right to manage from 13th September 2019, being the date provided for within the Claim Notice.

Judge D. R. Whitney

RIGHTS OF APPEAL

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application to the First-tier Tribunal at the Regional office which has been dealing with the case.
2. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.
3. If the person wishing to appeal does not comply with the 28 day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28 day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.
4. The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking