



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

Case Reference : CHI/00HN/LRM/2021/0004

Property : Delton House, 7 Church Road,
Bournemouth BH6 4AS

Applicant : Delton House RTM Company Limited

Representative : Coles Miller Solicitors LLP

Respondent : Assethold Limited

Representative : Scott Cohen Solicitors

Type of Application : Entitlement to exercise right to manage

Tribunal Member(s) : Judge Tildesley OBE

Date of Decision : 10 August 2021

DECISION

Background

1. On 7 May 2021 the Applicant applied for a determination that it was entitled on 10 March 2021 to acquire the Right to Manage Delton House, 7 Church Road, Bournemouth BH6 4AS and appurtenant property comprised within title number DT56385 (the Premises) under Part 2 Chapter 1 of the Commonhold and Leasehold Reform Act 2002 (2002 Act).
2. On 13 April 2021 the Respondent served a counter notice stating that the Applicant was not entitled to acquire the Right to Manage by virtue of the following reasons:
 - The claim notice was not given by an RTM Company which complied with section 79(5) of the 2002 Act.
 - The claim notice did not contain the particulars required by section 80(8) of the 2002 Act
 - The claim notice did not comply with the requirements about the form of claim notices as prescribed by the regulations in accordance with section 80(9) of the 2002 Act.
3. On 24 June 2021 the Tribunal directed a determination on the papers, and for the parties to provide their statements of case. The Respondent did not supply a statement of case.
4. The Applicant supplied a hearing bundle. The Tribunal refers to pages in []

Findings

5. The Tribunal finds the following
 - On 7 August 2020 the Applicant was incorporated at Companies House under the company registration number 12799612 with two initial subscriber members, Sharon Elizabeth Graham and Colin Edward Jackson, as shown in the Certificate of Incorporation and Memorandum of Association [69].
 - On 7 August 2020, immediately on incorporation of the Applicant, the Applicant appointed Jacqueline Michelle Jackson as a member of the company to be regarded as jointly being a member with Colin Edward Jackson, together qualifying tenants of Flat 4 Delton House. The Applicant immediately on incorporation, also appointed Terence William Charles Storer and Sheila Anne Storer, together

qualifying tenants of Flat 3 Delton House. The Applicant has also appointed Beverly Jane Lawson, a qualifying tenant of Flat 2 Delton House, on 21 January 2021 - as shown in the Register of Members [90].

- Notices of Invitation to Participate were served on the two non-participating qualifying tenants at the block on 15 February 2021 [92]–[96].
- The Applicant served on the Respondent the Claim Notice dated 10 March 2021 [10] illustrating under Schedule 1 the full names of persons who were both qualifying tenants and members of the company.
- The Applicant has, therefore, satisfied the requirements of Section 79 (5) of the 2002 Act in that the names under Schedule 1 of the Claim Notice were not less than one-half of the total number of flats contained in the premises. There were six flats and qualifying tenants in the building and four of the qualifying tenants were shown in Schedule 1 to the Notice.
- The Applicant has complied with Section 79 (3) of the 2002 Act by producing the Office Copy entries of Title [138 – 158] which demonstrated the basis on which they are qualifying tenants.
- In responding to a request for information on 17 March 2021 the Applicant provided the Respondent with a copy of the Register of Members, as well as, copies of correspondence withdrawing previous claim notice; office copy entries for each qualifying tenant; copy of correspondence serving the Claim Notice; copy of invitations to participation and cover letters serving the same; and copy of the Memorandum and Articles of Association of the company.
- The Respondent has failed to specify the basis in which Section 79 (5) of the 2002 Act has not been complied with.
- The form of applications for membership from each of the qualifying tenants participating in this claim [168-172] was in accordance with Article 26(1) of the Model Articles of the Company.
- The Applicant has provided evidence and confirmations dealing with paragraph 1 of the Respondent's Counter Notice that the members referred to in the Claim Notice were correctly entitled to become members. In doing so, the Applicant has shown compliance with the requirement of the Section 80(8) and (9) of the 2002 Act.

Decision

6. The Tribunal is, therefore, satisfied that the Applicant was entitled on the 10 March 2021 to acquire the Right to Manage the Premises. In accordance with section 90(4) of the 2002 Act, the acquisition date is three months after the determination becomes final.

7. The Tribunal is minded to order the Respondent to reimburse the Applicant with the application fee of £100 payable within 28 days from the date of this decision. The reasons are (1) the Applicant has been successful (2) the Respondent did not submit a statement of case. The Respondent is entitled to make representations within 7 days from the date of this decision. If no representations are made the decision on reimbursement of fees becomes final without further order.

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).