

**RESIDENTIAL PROPERTY TRIBUNAL SERVICE  
SOUTHERN LEASEHOLD VALUATION TRIBUNAL**

Case Number: CH1/00HB/LRM/2008/0001

Re: Trinity Court, 16-20 Church Road, Horfield, Bristol BS7 8SA

In the matter of an application under Section 85 of the Commonhold and Leasehold Reform Act 2002 for an order to acquire the right to manage premises.

**Between:**

**Trinity Court Estate RTM  
Company Limited**

Applicant

and

**1. Maston Homes Limited  
2. Trinity Court Management  
(Horfield) Limited**

Respondents

Date of application: 20 February 2008

Date of hearing: 10 June 2008

Members of the Tribunal: Mr. J. G. Orme (Lawyer Chairman)

Mr. A. Cresswell (Lawyer member)

Mr. P. Smith (Valuer member)

Date of decision: 25 June 2008

**Decision of the Leasehold Valuation Tribunal**

**For the reasons set out below, the Tribunal orders that Trinity Court Estate RTM Company Limited is to acquire the right to manage the property at and known as Trinity Court, 16-20 Church Road, Horfield, Bristol BS7 8SA and that the acquisition date is 1 July 2008.**

**Reasons**

**The Application**

1. On 20 February 2008, the Applicant, Trinity Court Estate RTM Company limited, applied to the Tribunal under section 85 of the Commonhold and Leasehold Reform Act 2002 ("the Act") for an order that the company is to acquire the right to manage premises at Trinity Court, 16-20 Church Road, Horfield, Bristol BS7 8SA ("the Property").

2. The Tribunal issued directions on 28 March 2008 providing for the Applicant to prepare a written statement setting out the reasons why it considers that the Tribunal has jurisdiction to determine the application. The Applicant lodged such a statement on 15 May 2008.

#### **The Law**

3. Chapter I of Part 2 of the Act makes provision for the acquisition and exercise of rights in relation to the management of premises by an RTM company. The procedure is normally initiated by the RTM company giving a claim notice.
4. Section 79(6) provides that: *"The claim notice must be given to each person who on the relevant date is-*
  - a. *landlord under a lease of the whole or any part of the premises,*
  - b. *party to such a lease otherwise than as landlord or tenant, or*
  - c. *a manager appointed under Part 2 of the Landlord and Tenant Act 1987 .... to act in relation to the premises, or any premises containing or contained in the premises.*Section 79(1) defines the relevant date as the date on which notice of the claim is given.
5. Section 85 provides that: -
  - 1) *This section applies where a RTM company wishing to acquire the right to manage premises –*
    - a. *complies with subsection (4) or (5) of section 79, and*
    - b. *would not have been precluded from giving a valid notice under that section with respect to the premises, but cannot find, or ascertain the identity of, any of the persons to whom the claim notice would be required to be given by subsection (6) of that section.*
  - 2) *The RTM company may apply to a leasehold valuation tribunal for an order that the company is to acquire the right to manage the premises.*
  - 3) *Such an order may be made only if the company has given notice of the application to each person who is the qualifying tenant of a flat contained in the premises.*
  - 4) *Before an order is made the company may be required to take such further steps by way of advertisement or otherwise as is determined proper for the purpose of tracing the persons who are-*
    - a. *landlords under leases of the whole or any part of the premises, or*
    - b. *parties to such leases otherwise than as landlord or tenant.*Subsections 5 to 9 are not relevant to this application.
6. Section 79(5) of the Act provides that: *"In any other case, the membership of the RTM company must on the relevant date include a*

*number of qualifying tenants of flats contained in the premises which is not less than one-half of the total number of flats so contained.*

7. Some of the parties to the leases which are at the centre of this application are companies which have been dissolved. It is, therefore, necessary to look at the provisions of the Companies Act 1985.
8. Section 654 of that act provides that when a company is dissolved, all property and rights vested in the company immediately before its dissolution are deemed to be *bona vacantia* and accordingly belong to the Crown.
9. Section 656 provides that where property vests in the Crown under section 654, the Crown's title may be disclaimed by a notice signed by the Crown representative, that is to say the Treasury Solicitor. Section 657 provides that where notice of disclaimer is executed under section 656, the property to which the notice relates is deemed not to have vested in the Crown. Section 618(4) applies in such circumstances.
10. Section 618(4) provides that the disclaimer operates to determine, as from the date of disclaimer, the rights, interests and liabilities of the company, and the company's property, in or in respect of the property disclaimed.

#### **The Hearing**

11. The application was listed for a preliminary hearing on 10 June 2008. Mr. Scales represented the Applicant at the hearing. Mr. Scales is a lessee of 4 Trinity Court and a member and director of the Applicant company.
12. Although the hearing was listed as a preliminary hearing, the Tribunal was satisfied that it was appropriate to proceed to make a final determination on the application.

#### **The Evidence**

13. The Applicant provided a statement in support of its application. The documents attached to that statement together with the documents attached to the application form the bulk of the evidence on which the Tribunal was able to make its determination, assisted by brief evidence from Mr. Scales to clarify certain aspects.

#### **The Facts**

14. Mr. Scales drew a sketch plan showing the layout of the Property and described it to the Tribunal. The Property is on the corner of Church Road and Maple Road in Horfield. The present buildings were built in about 2004. There is a detached block on one side of the Property containing flats 1, 2, 3, 5, 6, 7 and 9. On the other side of the Property there is a block, containing flats 4 and 8, which is semi-detached from 1 Maple Road. That block has separate services from 1 Maple Road.

Between the two blocks is an area used for car parking and communal purposes.

15. The Freehold to the Property is not registered at HM Land Registry. However, the register of title of the head lessee's interest shows that the leasehold interest is held under 2 leases. The first is a lease of 16 and 18 Church Road dated 1 November 1887 which demised the premises for a term of 1000 years from 25 March 1877. The second is a lease of 20 Church Road dated 28 January 1892 for a term of 999 years from 29 September 1877. The Tribunal was provided with a copy of the second lease and an abstract of the first.
16. The Applicant produced a copy of a statutory declaration made by Keith Victor Stone on 15 December 2003 who declared that he purchased the leasehold interest in the property with Stephen David Stone on 13 April 1980. He declared that he is not aware of the identity of the landlord of either part of the Property and that he has not paid any rent under either of the leases nor has he been asked for any rent.
17. Mr. Scales told the Tribunal that he had known the Property since 2006 and that he was not aware of any evidence to show the identity of the freeholder. He said that his solicitor had carried out searches at the time of his purchase.
18. On the basis of the evidence before it, the Tribunal is satisfied that the Applicant cannot ascertain the identity of, nor find, the freeholder of the Property.
19. The Leasehold interest in the Property is registered at HM Land Registry with good leasehold title under title number BL75783. The registered proprietor is shown as Maston Homes Limited (company no. 05102003). The Applicant produced a report from the Companies House website showing that that company was dissolved on 9 January 2007. The Applicant also produced a notice of disclaimer executed by the Treasury Solicitor dated 23 April 2008 whereby the Treasury Solicitor disclaimed the Crown's title in the Property.
20. Maston Homes Limited no longer exists because it has been dissolved. The Tribunal is satisfied that a company which no longer exists cannot be found. In the absence of any evidence of any person applying for a vesting order in respect of the interest of Maston Homes Limited in the lease, the effect of sections 654 to 657 and 618(4) of the Companies Act 1985 is that the vesting of the lease in the Crown is deemed never to have taken place and the company's interest in the lease has been determined. Until a court makes a vesting order, the leasehold interest in the Property belongs to no-one.
21. Before Maston Homes Limited was dissolved, it granted long leases of the 9 flats in the Property. Those leases have been registered at HM Land Registry and the Tribunal has seen copies of the registers of title.

The Tribunal has seen a copy of the lease of flat 2 and the Applicant has informed the Tribunal that the leases of the other flats are in the same terms. Trinity Court Management (Horfield) Limited (company number 05629674) is a party to the leases. The intention was for that company to act as the management company for the Property and for Maston Homes Limited to transfer to it the leasehold title in the Property.

22. The Applicant produced a report from the Companies House website showing that Trinity Court Management (Horfield) Limited was dissolved on 28 August 2007. That company had no interest in the Property, its function being to perform the obligations of management under the leases and to enforce the obligations of the lessees. The Tribunal is satisfied that there is no interest that would have vested in the Crown under section 654 Companies Act 1985. The Tribunal is satisfied that as it has been dissolved, Trinity Court Management (Horfield) Limited cannot be found.
23. Mr. Scales informed the Tribunal and the Tribunal accepts that no manager has been appointed to manage the Property under Part 2 of the Landlord and Tenant Act 1987.
24. The Tribunal is satisfied that the Applicant cannot find, nor ascertain the identity of, any of the persons to whom the claim notice would be required to be given by section 79(6) of the Act.
25. The Tribunal also has to be satisfied that the Applicant complies with section 79 (4) or (5) of the Act and that it would not have been precluded from giving a valid notice under section 79 with respect to the Property.
26. Having heard the evidence of Mr. Scales, the Tribunal is satisfied that the Property is a self-contained building or part of a building within the meaning of section 72 of the Act.
27. Having seen the registers of title, the Tribunal is satisfied that the Property contains 9 flats each of which is held by a qualifying tenant, as they are all tenants under long leases.
28. The Tribunal has seen the memorandum of association of the Applicant company and is satisfied that it meets the requirements of section 73 of the Act. The register of members for the company shows that all the qualifying tenants are members of the Applicant company. In the circumstances, there was no requirement for the Applicant to give a notice of invitation to participate under section 78 of the Act.
29. As all the qualifying tenants are members of the Applicant company, the Applicant has complied with section 79(5) of the Act.

30. Furthermore, as each of the qualifying tenants has signed the application, the Tribunal is satisfied that each of the qualifying tenants has been given notice of the application as is required by section 85(3) of the Act.

**Conclusions**

31. The Tribunal is satisfied that the Applicant has complied with the requirements of section 85 of the Act and that it is appropriate to make an order that the Applicant is to acquire the right to manage the Property.

32. As there is presently no-one managing the Property, it is clearly desirable that the Applicant take over management as soon as possible. The Tribunal directs that the acquisition date for the purposes of section 90 of the Act is to be 1 July 2008.

Signed  
Mr. J G Orme  
Chairman  
Dated 25 June 2008