

		FIRST-TIER TRIBUNAL PROPERTY CHAMBER (RESIDENTIAL PROPERTY)
Case Reference	:	LON/00AK/LRM/2016/0020
Property	:	41 Fairfield Road, London N18 2QP
Applicant	:	41 Fairfield Road RTM Co. Ltd.
Representative	:	John Hemingway, Leasehold Doctors
Respondent	:	Harjit Singh
Type of Application	:	Entitlement to acquire the right to manage
Tribunal Members	:	Judge Dickie
Date and Venue of determination	:	12 January 2017, 10 Alfred Place, London WC1E 7LR

DECISION

Decision of the tribunal

The application is granted. The Applicant is entitled to acquire the Right to Manage on the relevant date. The Right to Manage is acquired on the acquisition date defined by Section 90(4) of the Commonhold and Leasehold Reform Act 2002 ("the Act"), (being 3 months from the date the tribunal's determination becomes final).

The application

1. An application has been made under section 84(3) of the Act for a determination that on the relevant date the Right to Manage Company was entitled to acquire the Right to Manage. The Applicants were the RTM Company and the leaseholders of the two flats in the premises. However, pursuant to s.84(3) the company is the only proper Applicant and I order the amendment of the application to remove the others named.

- ~~2. A notice of claim was served by the Applicant on the Respondent freeholder dated 6 September 2016. The notice required the service of any counter-notice by 21 October 2016.~~
3. Four counter-notices dated 19 October 2016 were served by the Respondent on the Applicant objecting on the following grounds:
 - a) The lessees not having the expertise and competence to manage such a building, which will lead to neglect, mismanagement and deliberate underspend.
 - b) There being service contracts currently running in relation to the building.
 - c) Correct procedure not followed in relation to previous notice dated 16 March 2016.
 - d) Failure to comply with section 79(2) of the Act.
4. On 16 November 2016 the Applicant applied to the First Tier Tribunal for determination as to the Right to Manage. In the covering letter accompanying the application, the Applicants' representative asserted:
 - a) The Respondent's first two objections are not valid reasons to object under the Act.
 - b) The Applicants know nothing of any notice dated 16 March 2016
 - c) Section 79(2) requires invitations to participate but not where all qualifying tenants were already members of the RTM.
5. Directions were issued by the tribunal and, no party having requested an oral hearing, the tribunal has considered it appropriate to determine the application on the papers. The Respondent has not responded to the application at all, having failed to comply with the direction to file and serve his case and evidence by 9 December 2016. The Applicant has produced the claim notice, the counter-notices, the incorporation certificate and memorandum and articles of association, the RTM membership applications, the Land Registry titles.
6. Section 84(2) provides for the service of a counter-notice alleging that, by reason of a specified provision of this Chapter, the RTM company was not entitled to acquire the right to manage. I agree with the Applicant's submission that the first two objections raised by the Respondent are not grounds contained in any of those provisions and are thus invalid.
7. The Respondent has failed to produce any evidence of a prior claim notice (which would predate the incorporation of the Applicant company effected on 10 August 2016). This ground of objection is therefore dismissed.
8. Section 79(2) provides:

~~The claim notice may not be given unless each person required to be given a notice of invitation to participate has been given such a notice at least 14 days before.~~

Pursuant to Section 78(1), however, a notice inviting participation is required to be given to each person who is the qualifying tenant of a flat contained in the premises, but who neither is nor has agreed to become a member of the RTM company. The Applicant has demonstrated that all three qualifying tenants were already members of the RTM company as at the date of the notice of claim. The fourth ground of objection is therefore also without merit.

9. Accordingly, I find no ground of objection is established and I determine that the Applicant is entitled to acquire the Right to Manage.

NAME **F. DICKIE**

DATE: **12 JANUARY 2017**