



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

Case reference : **LON/00AH/LRM/2019/0026**

Property : **5 Cargreen Road, London SE25 5AD**

Applicant : **5 Cargreen Road RTM Company Ltd**

Representative : **Canonbury Management**
(ref: TX1552691/CID1364241)
(mail@canonburymanagement.co.uk)

Respondent : **Assethold Limited**

Representative : **Scott Cohen solicitors**
(ref: SC3097)
(admin@scottssolicitors.co.uk)

Type of application : **Application in relation to the denial of
the Right to Manage**

Tribunal member : **Judge Timothy Powell**

Venue : **10 Alfred Place, London WC1E 7LR**

Date of decision : **13 February 2020**

FINAL DECISION

Decision of the tribunal

The tribunal determines that on the relevant date the applicant was entitled to acquire the Right to Manage (“RTM”) premises known as 5 Cargreen Road, London SE25 5AD (“the premises”).

Reasons

1. By a claim notice dated 7 June 2019, given pursuant to section 79 of the Commonhold and Leasehold Reform Act 2002 (“the Act”), the applicant RTM company gave notice that it intended to acquire the RTM the premises on 17 October 2019.

2. By counter-notice dated 10 July 2019, the respondent freeholder disputed the claim, alleging that the applicant had failed to establish compliance with section 79(8) of the Act.
3. On 11 September 2019, the tribunal has received an application under section 84(3) of the Act for a determination that, on the relevant date, the applicant was entitled to acquire the RTM the premises.
4. By a Preliminary Decision dated 7 January 2020, the tribunal determined that it had jurisdiction to entertain the application and issued further directions for its final determination.
5. By letter dated 24 January 2020, the respondent's solicitors wrote to the applicant, sending a copy to the tribunal, stating that "Following the preliminary decision & in the light of the further directions, with a view to proportionality our client has taken the commercial decision to withdraw the counter notice objecting to the RTM. We therefore write to confirm that our client hereby withdraws the Counter Notice dated 10 July 2019 given in relation to the above noted property."
6. By letter dated 11 February 2020, the applicant's representative wrote to the tribunal to request "permission for the tribunal to determine in favour of the Applicant."
7. In the light of the withdrawal of the counter notice and pursuant to section 84(5) of the Act, the tribunal determines that on the relevant date the applicant was entitled to acquire the RTM the premises.
8. Therefore, in accordance with section 90(4), within three months after this determination becomes final the applicant will acquire the right to manage the premises. According to section 84(7):
 - (7) A determination on an application under subsection (3) becomes final—
 - (a) if not appealed against, at the end of the period for bringing an appeal, or
 - (b) if appealed against, at the time when the appeal (or any further appeal) is disposed of."

Costs

9. Section 88(3) of the Act states:
 - (3) A RTM company is liable for any costs which such a person incurs as party to any proceedings under this Chapter before the appropriate tribunal only if the tribunal dismisses an application by the company for a determination that it is entitled to acquire the right to manage the premises."

10. In the light of the tribunal's decision, there is no question of awarding any costs of the proceedings to the respondent because the application for the right to acquire the RTM has not been dismissed.

Name: Timothy Powell

Date: 13 February 2020

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).