



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

**Case Reference** : LON/00AD/LRM/2016/0006

**Property** : 293-295 Main Road, DA14 6QL

**Applicant** : The Grange Residents RTM  
Company Limited

**Representative** : Canonbury Management

**Respondent** : Assethold Limited

**Representative** : Scott Cohen Solicitors

**Type of Application** : Right to Manage – Commonhold  
and Leasehold Reform Act 2002

**Tribunal** : Mr M Martyński (Tribunal Judge)  
Mr C Gowman

**Date of Hearing** : 6 July 2015

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**DECISION**

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**DECISION SUMMARY**

1. The Applicant will acquire the Right to Manage The Grange, 293-295 Main Road, DA14 6QL pursuant to its Claim Notice and in accordance with the provisions of section 84(7) Commonhold and Leasehold Reform Act 2002 ('the Act').

**GENERAL BACKGROUND**

2. The Building at 293-295 Main Road, DA14 is a purpose-built block of flats.

3. The Applicant Company was formed on 25 February 2016.
4. The Applicant's Claim Notice claiming the Right to Manage the Building is dated 17 March 2016.
5. The Respondent's Counter-Notice challenging the Right to Manage is dated 20 April 2016.
6. The Applicant's application to the tribunal seeking a declaration that it had acquired the Right to Manage is dated 10 May 2016.
7. Directions were given on the application on 19 May 2016. Those directions set the matter down to be heard at a short hearing on 6 July 2016.
8. The parties filed Statements of Case as required by the directions but neither party attended the hearing. In its Statement of Case (filed in response to the Respondent's Statement of Case) the Applicant said; "*In the light of the absence of any material objections to the RTM Claim, the Applicant would no longer object if the tribunal wish to hear the case on the papers, if the Respondent has no issue with this*".
9. On the morning of the hearing the tribunal's Case Officer telephoned the Respondent's solicitors and was told that the Respondent's representatives had abandoned their journey to the tribunal offices having got stuck in traffic. They indicated that they would be content for the matter to be decided on the papers alone.
10. We have therefore decided this application on the basis of; (a) the application form and documents attached, and; (b) each party's Statement of Case.

#### **THE RESPONDENT'S CASE**

11. The Respondent's Statement of Case sets out two grounds to oppose the Applicant's application for a declaration of the Right to Manage as follows.

#### *Mis-description of the property*

12. The Articles of Association of the Applicant Company state that the objects of the Company are to acquire and exercise the Right to Manage 'the Premises'. The Articles define 'the Premises' as; '*The Grange, 293-295 Main Road, Sidcup, Kent, United Kingdom, DA14 6QL and any common parts of that building which lessees of that building currently have use of under their leases*'.
13. According to the Land Registry entry for the freehold title of the building, the land is described as; '*Fox House, 293 and 295 Main Road, Sidcup (DA14 6QL)*'.

14. The Respondent's case on this point can be summarised as follows; The Articles of Association of the Applicant Company state that the Company's object is to acquire the Right to Manage, and to go on and manage '*The Grange*'. The freehold title to the building is in fact '*Fox House*'. Therefore the Company's own constitution does not allow it to make any claim in respect of '*The Grange*'.
15. In response, the Applicant states that the building has never been known as '*Fox House*', that there is a sign at the front of the building stating that it is '*The Grange*' and that it was the Respondent's management company that arranged for the sign in question to be put up.
16. The Applicant also makes the point that there is no difference in the address and post code of the building between the Articles of Association and the entry on the Land Registry.
17. In its Statement of Case, the Respondent drew our attention to a First-tier Tribunal decision relating to 59 Huntingdon Street dated 10 February 2015 [LON/00AU/LRM/2014/0017]. In that case, the RTM Company's Articles of Association referred to the objective of obtaining the Right to Manage of Flat 1-6, Huntington Street whereas the Land Registry entry for the building was '59 Huntington Street'. The tribunal concluded that there was a material difference between the two descriptions. Accordingly the tribunal found that the Right to Manage had not been acquired.
18. However, we have had regard to the Upper Tribunal decision of *Avon Ground Rents Limited and 51 Earls Court Square RTM Company Limited* [2016] UKUT 0022 (LC). This case, whilst it deals with a slightly different scenario to the one in *Huntingdon Street*, is, we believe relevant to the issues in our case
19. In *Earls Court Square* the RTM Company's articles described the premises as '*Flat 1-13, 51 Earls Court Square, London SW5 9DG*'. In its Claim Notice, the Company identified the premises as '*51 Earls Court Square*'. The tribunal made the following comments in that case.

26. The issue in this appeal turns solely on the meaning of the articles of association of the Company, and in particular on what the founding members of the Company meant when they stipulated that the expression "the Premises" means "Flat 1-13, 51 Earls Court Square." Just as with the interpretation of any formal document, the meaning of the Company's articles must be determined objectively, by asking what the parties using those words in those circumstances must reasonably be understood to have meant.

27. Where a document, including a company's articles of association, is ambiguous or reasonably capable of bearing more than one meaning, the court or tribunal required to interpret that document will give it the meaning which is more consistent with the parties' presumed intention. If a document contains an obvious mistake, and it is clear what the parties must have intended, the document will be interpreted in accordance with that intention.

There are numerous statements of high authority to that effect. Two examples will be sufficient to make the point.

In deciding the question in issue, the tribunal continued as follows;

31. The Company's articles say that its object is to acquire the right to manage premises described as "Flat 1-13, 51 Earls Court Square". Immediately on encountering that statement the informed reader would exclude the possibility that the Company had been established to acquire the right to manage a single flat, known as "Flat 1-13". As the reader would know, there is no such single flat; nor, if there was, could the management of a single flat be the object of an RTM company. No reasonable person would attribute that intention to the members of the Company because it is clear from the context that they must have meant something different.

32. The informed reader, having excluded a literal meaning of the description used in the articles, would go on to consider alternative meanings. The words "Flat 1-13, 51 Earls Court Square" might be a reference to the thirteen flats, numbered 1 to 13, in the building known as 51 Earls Court Square, or alternatively they might signify the building at 51 Earls Court Square, which comprises those 13 flats. In choosing between those alternatives the reasonable person would ask themselves whether the object of the Company could sensibly be the acquisition of the statutory right to manage thirteen individual flats (an object which is legally incapable of fulfilment), or whether the parties must have intended that the right would extend to the whole of the Building comprises the thirteen flats. There is only one possible answer to that question namely that the parties intended to refer to the whole of the Building, it being the only unit of property at 51 Earls Court Square capable of being the subject of an application for the acquisition for the right to manage.

33. I am therefore satisfied that the First-tier Tribunal came to the right conclusion although I would explain that conclusion on the basis that it is clear from the description in its articles that the premises in relation to which the Company is an RTM Company are the whole of the Building at 51 Earls Court Square. There was therefore no obstacle to the Company giving a claim notice asserting the right to manage the Building and the appeal is accordingly dismissed.

20. The same principles as set out by the Upper Tribunal apply to this case. One has to take an objective view to the description of the Premises and how a reasonable person would interpret them. Taking this view, given that;
- (a) there is no mistake in the number of the building, the street, the town and the post code
  - (b) there is no evidence that the building in question (in its current form) was ever known as 'Fox House'
  - (c) the Respondent, via its managing agent (who erected the sign saying "The Grange") could be in no doubt as to the identity of the property
- Then, the parties were clear between themselves what premises were being referred to in the Articles and the Claim Notice, and further, any other reasonable person would conclude that the premises in question were those situate at 293-295 Main Road, Sidcup, Kent, DA14 6QL.
21. It follows therefore that there can be no doubt the Applicant Company's Articles allow it to claim and exercise the Right to Manage the building in question.

*Notice to leaseholders*

22. The Respondent's Statement of Case deals with this point as follows.

9. It is the Respondent's position that the Applicant failed to serve the notice inviting participation in accordance with the requirements of Section 78(1) and 79(2) to all qualifying tenants.

10. The leaseholder of Flat 4 is David Geoffrey Johnston, is not a member of the RTM company and as such is entitled to receipt of a notice inviting participation.....

11. ....the Notice inviting participation addressed to the Qualifying Tenant of Flat 4 [is] at an address of 'Halnacker Hill, Bowlhead Green, Godalming, Surrey UK GU8 6NP.

12. The requirement of section 111(5) of Chapter 1 of Part 2 of the Commonhold and Leasehold Reform Act 2002 however provides that "A company which is an RTM company in relation to premises may give a notice under this Chapter to a person who is the qualifying tenant of a flat contained in the premises at the flat unless it has been notified by the qualifying tenant of a different address in England and Wales at which he is to be given any such notice".

13. With respect of flat 4 it would appear that the address for service is that shown upon the Land Registry for the leaseholder. The Respondent therefore put the Applicant to proof of notification from the respective leaseholders of the addresses for service of the notices to this address.

23. The Respondent appears to be saying here that the address for service (in accordance with the Act) for the tenant of Flat 4 is the address in the Land Registry entry. The Respondent however acknowledges that the relevant notification was sent to the tenant of Flat 4 at the address in the Land Registry entry. The Respondent therefore seemingly answers its own point.

24. In any event, it seems to us that, by registering the Halnacker Hill address in the Land Registry entry for Flat 4, the leaseholder is clearly giving notice to anyone who is concerned with his ownership of Flat 4 that this is his address for service.

25. Accordingly we conclude that the Applicant has properly complied with sections 78 & 79 of the Act.

**Mark Martyński, Tribunal Judge**  
**6 July 2016**