



**DECISION OF THE LEASEHOLD VALUATION TRIBUNAL  
FOR THE LONDON RENT ASSESSMENT PANEL  
SECTION 84(3) COMMONHOLD AND LEASEHOLD REFORM ACT 2002**

**PREMISES:** Trinity Wharf, 305-309 Rotherhithe Street, London SE16 5HD

**APPLICANT:** Trinity Wharf (SE16) RTM Co Ltd

**RESPONDENT:** Fairhold (Yorkshire) Ltd

**TRIBUNAL:** Mr P M J Casey MRICS (Chair)

**DATE OF HEARING:** 8 October 2011 (Determination on the papers)

**DATE OF DECISION:** 18 October 2011

**Summary of Decision**

1. In accordance with section 84(3) Commonhold and Leasehold Reform Act 2002 ("the Act") the Tribunal determines that on 19 April 2011 the Applicant was entitled to acquire the right to manage Trinity Wharf 305-309 Rotherhithe Street London SE16 5HD ("the premises").
2. No order is made as to costs.

## Background

3. The premises apparently consist of a number of blocks of flats being Nos 1-48 Harwood Point, 1-48 Somerville Point, 1-7 Jellico Point, 1-8 Rodney Point and 1-9 Hood Point. All of the flats in the first four blocks are let on 999 year leases from various dates in the years 1999 to 2002. Hood Point is let on a single lease to a social housing provider, London and Quadrant Housing Trust which has itself granted 125 year leases from 25 March 1999 in respect of at least some of its flats apparently on a shared ownership basis.
4. The applicant was incorporated on 22 April 2005. The Applicant served on the Respondent a Claim Notice on 19 April 2011 claiming to acquire the right to manage pursuant to section 79 of the Commonhold and Leasehold Reform Act 2002. The Respondent served on the Applicant a Counter Notice dated 12 May 2011 pursuant to section 84 of the Act.
5. These proceedings, for a declaration as to the Applicant's entitlement to the acquisition of the right to manage, were issued by the Applicant on 11 July 2011. The Respondent's Counter Notice referred to above contained four objections to the Claim Notice. The Counter Notice stated:-  
  
"1. I allege that, by reason of a failure to comply with/satisfy the following provisions of Chapter 1 of Part 2 of the Commonhold and Leasehold Reform Act 2002 ("the Act"):  
  
1.1 Section 72 of the Act provides that premises will only be the Subject of RTM premises if (inter alia) they consist of a self-contained building; or a part of a building with or without appurtenant property

1.2 The premises described in the claim notice are not a self-contained building or part of a building as they fail to comply with section 72(2) or 72(3) of the Act

1.3 Notices inviting participation have not been given to London and Quadrant Housing Trust the qualifying tenant of 1-9 Hood Point

1.4 No claim has been served on Trinity Wharf Management Company Limited a party to all the leases

On 19 April 2011 Trinity Wharf (SE16) RTM Company Ltd was not entitled to acquire the right to manage the premises specified in the claim notice.

2. If the company ...”

6. The Leasehold Valuation Tribunal considered the application to be suitable for determination without an oral hearing (paper track) in accordance with Regulation 13 of the Leasehold Valuation Tribunals (Procedure) (England) Regulations 2003 and on 20 July 2011 issued directions for the further conduct of the proceedings (twice subsequently amended). Neither party sought an oral hearing and the application has been determined on the papers provided in accordance with those directions and also a further response from the respondent dated 7 October 2011 which the Tribunal accepted in view of the lateness of the Applicant’s Statement of Case dated 29 September.

## **The Issues**

7. In its Statement of Case dated 15 August 2011 the Respondent withdrew the objections in the Counter Notice to the effect that the premises were not such as to comply with S72(2) or (3) of the Act but maintained the other grounds and sought to add a further relating to the Invitations to Participate and its

desire to have a sight of the register of members at the date of claim and the applications for membership.

8. In support of the claim that London and Quadrant Housing Trust (“L&Q”) had not been invited to claim it was points out that 2 lessees of Hood Point had joined the RTM but as occupiers under shared ownership leases they were not qualifying tenants by virtue of S76(2)(e) of the Act. This it was claimed showed no Invitation to Participate was sent to L&Q, the qualifying tenant in respect of the whole of Hood Point.
9. In the reply to the Applicant’s Statement of Case a further point is raised relating to the failure to exhibit in the documents a copy of the Invitation to Participate and there was no evidence one had ever been served. It is also claimed that the Applicant failed to address the issue of service of the Notice of Claim on the management company nor provided any evidence of service of that notice on L&Q.
10. The Applicant in its Statement of Case says that Invitations to Participate were sent under a covering letter sent by Rendall and Rittner, the managing agents for Trinity Wharf Management Ltd as well as agents for the RTM, in May 2010 to all lessees paying a service charge. The letter explained amongst other matters the reason for the Invitations to Participate in the RTM. The service charge demands for the first half year of the new service charge year were enclosed together with the estimate of expenditure for the year, the Invitation to Participate and the reply form. At least 3 copies were sent to L&Q as payees of the service charges in respect of some of the Hood Point flats. Reminder letters were sent on 15 July and 25 August.

11. On the issue of service of the Notice of Claim on the management company the Applicant says that company's registered office is that of the managing agents and the claim notice is held there.

## **Decision**

12. It is the opinion of the Tribunal that the only grounds that can be relied upon in opposing a Right to Manage application are those set out in the Counter Notice. It is not open to a respondent landlord to seek to add to those grounds at a later date.
13. Having considered the copy documents provided the Tribunal is satisfied on the balance of probabilities that L&Q were served with an Invitation to Participate in the RTM. That fact that some other Hood Point lessees were also served does not affect this finding; they may in any event have acquired a 100% share and would then be qualifying tenants. The fact that two have joined the RTM does not affect the requisite majority even if they were not qualified to join. The omission of a copy of the Invitation to Participate from the bundle is of no consequence as clearly from the responses one was sent to each service charge paying lessee with May 2010 letter and in any event S78(7) provides that an invitation is not invalidated by any inaccuracy therein.
14. The remaining Counter Notice ground for objection relates to service of the claim notice on the management company. Rendall and Rittner Ltd are agents for that company and the RTM and they appear from the papers to be fully conversant with the requirements of the RTM process and again on the

balance of probabilities the Tribunal is satisfied that the required service was effected.

15. Accordingly Trinity Wharf (SE16) RTM Co Ltd will acquire the right to manage the premises in three months time from the date of this decision unless there is an appeal to the Lands Tribunal.

16. There was no application for costs made in these proceedings.

A handwritten signature in black ink, appearing to read 'P M J Casey', written in a cursive style.

**CHAIRMAN**            **P M J CASEY**

**DATE**                    **18 October 2011**