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**HM COURTS & TRIBUNALS SERVICE
LEASEHOLD VALUATION TRIBUNAL
of the LONDON RENT ASSESSMENT PANEL**

Property	Flat 1 Cambridge House, 11, Montpelier Road, Ealing, London W5 2QP
Applicant	Bernard Wales
Respondent	Peter Sherwen
Case Number	LON/00AJ/LBC/2012/0128
Type of Applications	Application under Section 168(4) of the Commonhold and Leasehold Reform Act 2002 for an Order that a breach of covenant or condition in the Lease has occurred.
Date of Decision	3 rd December 2012
Tribunal	A.J.ENGEL M.A.(Hons.) - Chairman T.JOHNSON F.R.I.C.S. N.MILLER

DECISION

A breach of the Respondent's covenant not to use the Property for any trade manufacture or business whatsoever has occurred.

REASONS

Background

1. The background to this application is set out in the Reasons for Case No. LON/00AJ/LVM/2012/0004 (Application to replace the Manager of Cambridge House).

Expedited Hearing

2. The Applicant (Bernard Wales), the Respondent (Peter Sherwen) and Maxine Morse (Lessee of Flat 2) all agreed to this matter being heard by the Tribunal on 22nd November 2012, the day this application was made.

Amendment

3. The written application originally named Maxine Morse as the Respondent. This was an error and the application was amended by the Tribunal to replace Maxine Morse with Peter Sherwen as the Respondent.

The Lease

4. The Respondent is the Lessee of Flat 1. His lease contains a covenant on the part of the tenant not to use the Property for any trade manufacture or business whatsoever.

The Facts

5. The facts are clear and undisputed. Mr Sherwen is by profession an architect. He is a semi-retired sole practitioner. He has a desk, computer and some papers (which he uses in the course of his work) in his flat. He has had two clients visit him at his flat in some 10 years. None of the other Lessees (including Maxine Morse) object to this activity.
6. However, his name and profession appear on a (small) number of internet sites together with his address (11, Montpelier Road) and the telephone number of his flat. Maxine Morse (alone) objects to this as she considers that it lowers the value of her flat, although no evidence was provided to support this contention.

Determination

7. Peter Sherwen agreed at the hearing that there was a breach of covenant and we (reluctantly) so find.

8. We consider it highly unlikely that the value of the Maxine Morse's flat would be affected in any way by the activities of Peter Sherwen but the words of the covenant are clear and we are obliged to find that a breach thereof has occurred.

The Future

9. Peter Sherwen informed the Tribunal that if we found there had been a breach of covenant, he would immediately rectify the breach.

SIGNED

(A.J.ENGEL – Chairman)