

Y TRIBIWNLYS EIDDO PRESWYL

RESIDENTIAL PROPERTY TRIBUNAL

LEASEHOLD VALUATION TRIBUNAL

Reference: LVT/0032/10/14

In the matter of an application under S85 (2) of the Commonhold & Leasehold Reform Act 2002

Applicants: Vaughan House RTM Company Ltd
C J Cheetham & P V Cheetham
Keith Newman
M I Jones
Julie Norman

Respondents: R A Pett & C J Pett

Tribunal: J D M Jones. Chairman
Tom Daulby FRICS

The Property: Vaughan House, 23 Vaughan Street, Llandudno, Conwy LL30 1AH

Consideration: 22nd January 2015

Application:

1. This is an application under S85 (2) of the Commonhold and Leasehold Reform Act 2002 for an order that Vaughan House RTM Company Limited (the Company) acquire the right to manage the Property. The Application was made by Colin Jones Cheetham a director of the Company and dated 6th October 2014
2. The parties agreed to the Application being determined without an oral hearing.

The Property:

3. The Property was inspected on the morning of 22nd January 2015 in the presence of Mr C J Cheetham and Mrs M Jones. The Property is located in Vaughan Street Llandudno close to the centre of this pleasant seaside resort. Vaughan Street runs at right angles to the Promenade and the Property is the end house in a terrace of Victorian houses some of which are now used for commercial use, certainly at ground floor level. To the front, between the property and the pavement is a small enclosed concrete area. To the rear is a small yard to which all the tenants have access. We had access to the rear enclosed yard.
4. We also had access to the interior of the Property and inspected the communal areas which comprise a small entrance hall, the stairways and landings. In addition we were allowed access to flat 1 by Mrs M Jones, the tenant and to the ground floor flat by Mr Cheetham.

Both flats were self contained units connected to all mains services and afforded good sized well maintained residential accommodation. There are 4 flats in the Property.

5. It was noted that the Property was an end of terrace property, independent of and divided vertically from the adjoining property and it had independent services being connected to mains water, gas, electricity and drainage.

The background:

6. Pt 2 Chapter 1 of the Commonhold & Leasehold Reform Act 2002 (the 2002 Act) established the right to manage. Leaseholders can form and join a company (a right to manage company) to acquire the management function of the landlord in respect of their leases. In order to qualify for the right to manage the building has to comply with the requirements set out in the Act.
7. Provided a valid company is formed, gets the required support and serves the right notices it can acquire all the management functions of the landlord under the leases. Those functions are defined as functions in respect of services, repairs, maintenance, improvements, insurance and management. This in effect covers all the service charge functions.

Qualification criteria:

8. These are set out in S72 of the 2002 Act.

This Chapter applies to premises if:

9.
 - (a) They consist of a self contained building or part of a building with or without appurtenant property
 - (b) They contain two or more flats held by qualifying tenants and
 - (c) The total number of flats held by such tenants is not less than two thirds of the total number of flats contained in the building.
10. A building is a self contained building if it is structurally detached.
11. A part of a building is a self contained part of a building if
 - (a) It constitutes a vertical division of the building
 - (b) The structure of the building is such that it could be redeveloped independently of the rest of the building
 - (c) Subsection (4) applies to it
12. Subsection (4) applies in relation to part of a building if the relevant services provided for occupation of it
 - (a) are provided independently of the relevant services for occupiers of the rest of the building or
 - (b) could be so provided without involving the carrying out of works likely to result in a significant interruption in the provision of any relevant services for occupiers of the rest of the building

Consideration of the papers:

13. We have had sight of the following underleases

Ground Floor Flat	25th April 1978	Mr & Mrs Roy A Pett (1) Mr & Mrs K Bennett (2)
Flat 1	1st November 1976	Mr & Mrs Roy A Pett (1) Miss Winifred Schofield (2)
Flat 2	21st April 1978	Mr & Mrs Roy A Pett (1) Dorothy L Brown (2)
Flat 3	22nd April 1977	Mr & Mrs Roy A Pett (1) Mrs E Everson.(2)

14. The underleases are all for a term of ninety nine years and are in substantially similar form. They contain a covenant by the Landlord (Roy Arthur Pett and Christine Jennifer Pett) in the following terms:

- (1) To pay all existing and future rates taxes assessments and outgoings now or hereafter imposed or payable in respect of the retained premises.
- (2) To pay the rent reserved by the superior lease and to perform (so far as the Tenant is not liable for such performance) all the covenants on the part of the lessee therein contained and in particular the covenant therein for repayment to Mostyn Estates Limited of the premiums and moneys payable for insuring the premises comprised in the superior lease and to keep the Tenant indemnified against all claims damages costs and expenses if any relating thereto.
- (3) As often as the house or any part thereof is destroyed or damaged to rebuild and reinstate the same to the satisfaction of the Tenant and it is hereby agreed that any money's received in respect of such insurance shall be applied so far as the same extends in rebuilding or reinstating the house in accordance with the then existing bye laws regulations and planning and development schemes of any competent authority then affecting the same and if the monies received under such policy or policies of insurance is insufficient for the full and proper rebuilding and reinstatement of the retained premises then to make up any deficiency out of his own money.
- (4) To repair and keep in tenable repair and state of decoration the exterior of the house (including the roof) and the entrance hall landings staircases and front garden or yard and rear yard of the house and all additions thereto and the walls and fences and drains thereof all paintwork to be painted at least once in every three years and the brickwork to be painted as required

15. The reference to Mostyn Estates Limited is to the company which is still the registered proprietor of the freehold. We have had sight of office copies of the registers of title to the freehold interest of Mostyn Estates Limited and to the leasehold interests of the Applicants.

16. Among the papers we have a statement by Mr Cheetham in which we are told that Mr Roy Pett has died intestate and Mrs Pett was in a home for the mentally ill. It had not been possible to contact Mrs Pett personally and it had been made quite clear by their son who also was very ill that they should not be contacted again as they had no interest or status in the matter. Despite further attempts by Mr Cheetham to contact the Landlord by sending a tracked letter by the Royal Mail tracked service no response has been received.

17. We also have a statement by Mr Cheetham that he has complied with the requirements of Ss 78 & 78 of the 2002 Act. As the Landlord is not traceable the requirements of S85 of the 2002 Act have also been complied with and fulfilled.
18. All 4 of the tenants are members of the Vaughan House RTM Company and we have had sight of the Memorandum and Articles of Association applicable which incorporate The RTM Companies (Model Articles) (Wales) Regulations 2011 Decision
19. The Tribunal is satisfied that the qualification criteria are met. It is also satisfied that the Company is validly formed, has the required support and has served the valid notices. No counter notices have been served.
20. The Tribunal is satisfied that it is appropriate to make an order under S85 (2) of the Act and orders accordingly. The acquisition date shall be 6th October 2014.

Dated this 18th day of March 2015

A handwritten signature in black ink, appearing to be 'D.M.R.', written in a cursive style.

CHAIRMAN