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**HM Courts  
& Tribunals  
Service**



**Residential  
Property  
TRIBUNAL SERVICE**

**LEASEHOLD VALUATION TRIBUNAL**

In the matter of an application under section 85 of the  
Commonhold and Leasehold Reform Act 2002

Case No. CHI/29UN/LOA/2012/0001

Property: **21 Augusta Road  
Ramsgate  
Kent  
CT11 8JP**

Between: **21 Augusta Road RTM Company Ltd  
(the Applicant)**

and

**Roger William Smith  
(the Respondent)**

Date of hearing: 9<sup>th</sup> November 2012  
Date of the decision: 16<sup>th</sup> November 2012

Members of the Tribunal: Mr D. Dovar LLB (Hons)

1. This is an application under section 85 of the Commonhold and Leasehold Reform Act 2002 ('the Act') for an order that the applicant is to acquire the right to manage 21 Augusta Road, Ramsgate, Kent CT11 ('the Property'). Section 85 is the procedure where tenants of flats wish to exercise their right to manage under the Act, but the landlord is missing.
2. Before making such an order, section 85 (1) and (3) provide that the Tribunal has to be satisfied that:
  - a. The applicant has complied with subsection (4) or (5) of section 79 of the Act (in that the number of members of the applicant company satisfies the minimum requirements) and that a valid notice of claim could have been given but the landlord either could not be found or their identity could not be ascertained; and
  - b. The applicant has given notice of this application to each qualifying tenant.
3. Further, before any order is made the Tribunal may require further steps to be taken to try and locate the landlord.
4. The Tribunal has been provided with a witness statement of Mr Bignell dated 19<sup>th</sup> September 2012 which sets out the basis of the application as well as exhibiting a number of documents referred to below.
5. From the Office Copy Entries provided it appears that the Property comprises four flats; being Basement Flat 1, Ground Floor Flat 2, First Floor Flat 3 and Second Floor Flat 4. All flats are held by on long leases. The freehold to the property is registered in the name of the Respondent and the address given there is that of the property.

6. On 20<sup>th</sup> August 2012 the Applicant was incorporated as a company limited by guarantee and adopted the articles prescribed by statute. On incorporation the members register showed Francoise Elizabeth Myer twice as a member in her capacity as leaseholder of two flats in the Property.
7. Mr Bignall states that on 29<sup>th</sup> August 2012 Notices of Invitation to Participate were sent to the remaining two leaseholders in the Property. This was sent both to the flat address and to the address given on the office copy entry. A certificate of posting has been provided.
8. In addition, on 19<sup>th</sup> September 2012, the applicant gave notice of its intention to make this application to the other two leaseholders in the property at the address referred to previously. Again a certificate of posting has been provided. Further letters were sent out on 4<sup>th</sup> October 2012 enclosing a copy of the application.
9. The Applicant has also made attempts to trace the landlord by placing adverts in various local newspapers and various fruitless enquiries to locate the landlord undertaken by Ms Meyer have been exhibited to Mr Bignall's statement.
10. There has been no response from either the landlord or the other qualifying tenants.
11. In the circumstances, the Tribunal is satisfied that:
  - a. The Property is one that is susceptible to a claim to acquire the right to manage;
  - b. The Applicant's membership satisfies the requirements of section 79 (5) and (6) in that Ms Meyer being a long leaseholder of two flats is entitled to be registered as a member in respect of each flat held as she is a qualifying tenant of each (section 75 (2));

- c. At the date of the application, the Applicant would have been able to serve a valid notice under the Act, but was unable to do so solely because the landlord could not be traced and therefore had to apply under section 85 (section 79 (7));
  - d. Sufficient steps have been taken to try and locate the landlord.
12. Therefore the Tribunal will make an order that the Applicant is to acquire the right to manage the Property under the Act. Given that there is currently no traceable landlord and that the Act does not specifically state when the right to acquire is to take place, the Tribunal considers that it is appropriate that the order should take effect forthwith.

D DOVAR LLB (HONS)

Chairman

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**ORDER**

UPON THE APPLICATION OF the Applicant

AND Upon the Tribunal being satisfied that the requirements of sections 85 (1)  
and (3) have been satisfied.

IT IS HEREBY ORDERED

In accordance with section 85 (3) of the Commonhold and Leasehold Reform Act  
2002, the Applicant shall acquire the right to manage 21 Augusta Road,  
Ramsgate, Kent, CT11 8JP forthwith.

D DOVAR LLB (Hons)

Chairman

16<sup>th</sup> November 2012