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**First-tier Tribunal
Property Chamber
(Residential Property)**

Case reference : **CAM/00MB/LRM/2014/0012**

Property : **Brunel Court,
Old College Road,
Newbury
RG14 1TE**

**Smeaton Court,
Old College Road,
Newbury,
RG14 1TQ**

**Telford Court,
Old College Road,
Newbury,
RG14 1TF**

Applicant : **College Mews Newbury Ltd.**

Respondents : **Holding and Management (Solitaire)
No. 2 Ltd.**

Date of Application : **25th July 2014**

Type of Application : **For an Order that the Applicant is
entitled to acquire the right to
manage the property (Section 84(3)
Commonhold and Leasehold Reform
Act 2002 (“the 2002 Act”)**

The Tribunal : **Mr. Bruce Edgington (lawyer chair)
Mr. David Brown FRICS**

DECISION

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1. This Application succeeds in so far as it applies to 1-9 Smeaton Court, Old College Road, Newbury RM14 1TQ, and to 1-14 and 15-27 Telford Court, College Road, Newbury RM14 1TF. The Applicant therefore acquires the right to manage those properties on the 22nd December 2014 (Section 90(4) of the 2002 Act).
2. The application relating to 1-9 Brunel Court, College Road, Newbury RM14 1TE fails so that the Applicant does not acquire the right to manage.

Reasons

Introduction

3. The Respondent accepts that the Applicant is a right to manage company ("RTM"). Such RTM served the Respondent with claim notices on the 28th April 2014 seeking an automatic right to manage the properties on the 1st September 2014 and giving the 30th May 2014 as the date by which counter-notices must be served. On the 28th May 2014, the Respondent's agents, Estates & Management Ltd. served counter-notices.
4. The counter-notices raised breaches of sections 73 and 80 of the 2002 Act. The Respondents' submission to the Tribunal confines itself to two issues and the Tribunal will do the same. The first issue is whether the Memorandum and Articles describe the properties with sufficient clarity. The relevant part of such Memorandum and Articles describes a number of properties in College Road, Newbury. Of relevance to this application it describes "1- Brunel Court, 1-9 Smeaton Court and 1-27 Telford Court".
5. It seems that Claim Notices were also served in respect of 1-14 and 15-27 Stephenson Court, but these have not been the subject of this application.
6. The other ground relied upon by the Respondent is that one RTM is not entitled to acquire the right to manage more than one self contained building or part of a building. This has been the subject of an Upper Tribunal decision in **Ninety Broomfield Road RTM Co. Ltd. v Triplerose Ltd and other appeals** [2013] UKUT 0606 (LC) which ruled that one RTM could manage more than one such building. The Respondent asserts, not for the first time in the experience of this Tribunal, that because an appeal against that decision to the Court of Appeal is due to be heard, "*the current law is generally unclear*".

The Law

7. Section 73 of the 2002 Act defines an RTM by saying that "*its articles of association state that its object or one of its objects, is the acquisition and exercise of the right to manage the premises*".

Conclusions

8. As to the first point raised by the Respondent, the Tribunal finds that 1-9 Brunel Court, College Road, Newbury is not described in the Memorandum and Articles of Association. As has been said such document only describes 1- Brunel Court. It may be that this is simply a misprint but it does, nonetheless, mean that the right to acquire and exercise the right to manage 2-9 Brunel Court is not set out in the Memorandum and Articles of Association. The application relating to Brunel Court therefore fails.
9. However, the other properties are so described. 1-27 Telford Court is described whereas the claim is in respect of 1-14 and 15-27 Telford Court. The Tribunal does not consider that to be a defect. It is not suggested that, individually, 1-14 and 15-27 Telford Court are not, in themselves, self contained buildings or parts of buildings.

10. As to the other point raised by the Respondent, this Tribunal considers that it is bound by the Upper Tribunal's decision which is the law. Just because the Court of Appeal is due to hear an appeal does not make the Upper Tribunal's decision any less binding. It also does not make the current law 'generally unclear'.

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Bruce Edgington
Regional Judge
23rd September 2014