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

Case reference : **CAM/22UD/LRM/2012/0013**

Property : **Becket House,
New Road,
Brentwood,
Essex CM14 4GA**

Applicant : **Becket House RTM Co.Ltd.**

Respondents : **(1) O Twelve Baytree Ltd.
(2) Fairhold Freeholds No.2 Ltd.**

Date of Application : **10th December 2012**

Type of Application : **For an Order that the Applicant is
entitled to acquire the right to
manage the property (Section 85(2)
Commonhold and Leasehold Reform
Act 2002 (“the 2002 Act”)**

The Tribunal : **Bruce Edgington (lawyer chair)
Evelyn Flint DMS FRICS IRRV
David Cox**

DECISION

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1. This application is dismissed

Reasons

2. At the time this application was made to the Leasehold Valuation Tribunal, the Applicant was a right to manage company (“RTM”), the 1st Respondent was the freehold and leasehold owner of Becket House and Baytree Centre, Brentwood, Essex and the 2nd Respondent was the underlessee of Becket House.
3. The powers and jurisdiction of the Leasehold Valuation Tribunal has since been subsumed into this Tribunal.
4. The application was opposed by the Respondents on various grounds. The Leasehold Valuation Tribunal issued its usual directions order

timetabling the case to a final hearing which was fixed for the 4th April 2013. Preparations were made and bundles delivered. However, on the 2nd April the Applicant's solicitors said that they wanted to withdraw the application and cancel the hearing.

5. At the time, the Tribunal considered that it was *functus* as there was no provision within its procedural regulations or statute for an application to continue once it had been withdrawn. The hearing was cancelled. The 1st Respondent did not agree with that decision and sought a Judicial Review. It felt that the Tribunal should have dismissed the application so that section 88(3) of the **Commonhold and Leasehold Reform Act 2002** was triggered which would have given the 1st Respondent an automatic right to recover its costs from the Applicant.
6. The Judicial Review application came before Mr. Justice Lewis in the Administrative Court and his judgement is dated 16th April 2014. His conclusion was:-

“In the circumstances of this case, therefore, the tribunal erred in concluding that it no longer had jurisdiction in relation to the application simply because the RTM had notified the tribunal of its wish to withdraw the application. Equally, the tribunal was not under a duty to hear and determine the underlying merits of the case. When the RTM gave notice of its intention to withdraw its application, the tribunal retained jurisdiction and could either decide to dismiss the application, on the basis that application (sic) was withdrawn, or, if it thought it appropriate to do so, could proceed to determine the application”

7. Upon receipt of that judgment, the Tribunal wrote to the Applicant's solicitors expressing the view that *“it cannot just dismiss a case without offering the applicant both the opportunity to make representations and attend a hearing to argue its case”*. The Applicant was then given more than 28 days' notice that if it did not avail itself of either or both of these opportunities a decision would be made by this Tribunal on a consideration of the papers only on or after 2nd June 2014.
8. No representations were made and no hearing was requested.
9. It is this Tribunal's view that (a) it is bound by the Administrative Court's decision, (b) that Mr. Justice Lewis gave a clear 'steer' to this Tribunal that it should either proceed to determine the issue in the case or dismiss the application on the basis that the Applicant had expressed its intention to withdraw and (c) that it would be disproportionate both for the parties and the Tribunal to go to the trouble and expense of determining what is a complex case in these circumstances.
10. For these reasons the application is dismissed.

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Bruce Edgington
Regional Judge
4th June 2014