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Client Director Telephone Service

If you have any questions about the management of your block or if you feel we can improve on the service we provide, please feel free to get in touch with us on 0207 1188 100

Task reference: TX1659035
Correspondence reference: 1522672e
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Dear Michael,

Chelsea Bridge Wharf - Right to Manage - Eligibility and Recent Case Law Implications - TX1659035

Thank you for your time to date and for the opportunity to comment on the Right to Manage process, recent precedent case law and its implications for Chelsea Bridge Wharf (CBW).

I will outline our specific response to the various issues previously raised as an itemised list:

1) Eligibility for Right to Manage

The Right to Manage legislation affords the right to leasehold owners to take control of the management of self contained blocks of flats from the Lessor (freeholder). The act defines eligible premises under section 72 of the Commonhold and Leasehold Reform Act. The important part of this section is the definition of a self contained part of a building being:

(3) A part of a building is a self-contained part of the building if—(a) it constitutes a vertical division of the building,

There is much established case law in respect of the matter of vertical division and how this applies to RTM most notably in *Ninety Broomfield Road RTM Co Ltd v Triplerose Ltd* [2015] EWCA Civ 282 (27 March 2015). This case related to a development of 3 adjoining buildings which went through a single RTM but they were vertically divided and so the end result was that their RTM failed. From ground level it would appear that CBW is a mix of vertically divided individual blocks however that is not the case. As per the attached plan of the development, the underground car park is not subdivided and spans under all blocks on the estate (by necessity to allow access to each block from inside). As such CBW is one single vertically separated "building" for the purposes of the Right to Manage legislation. It must be necessary undertake the Right to Manage process as a single entity and that entity will be subject in its entirety to the remaining provisions with respect to eligibility which are:

- a) No greater than 25% of the floor area given over to commercial use.
- b) At least 2/3rds on long leases

c) at least 50% of qualifying tenants as members at the time of service of the claim.

2) Multiple freeholders for the above ground individual buildings

It has been eluded that the issue of different "blocks" being owned by different freeholders prevents the RTM being undertaken. Our view is that this is not the case and the legislation has been drafted in such a way as to deal with this eventuality:

(6) The claim notice must be given to each person who on the relevant date is— (a) landlord under a lease of the whole or any part of the premises,

It is notable that the stipulation is that the notice is to be given to ANY landlord under a lease of any PART of the premises. This clearly deals with issues of multiple landlords.

3) Supreme Court Ruling Firstport Property Services Ltd v Settlers Court RTM Company Limited [2022] UKSC 1

To summarise, this ruling relates to the shared grounds on estates where blocks are vertically separate and each goes through its own Right to Manage process. When an individual block goes through RTM it takes over the block and any "appurtenant property" related to that block i.e. any grounds which its occupants have legal rights of access and obligation to maintain but where those grounds are not share with occupants of other blocks. This ruling set aside a previous judgement from 2012 and made clear that where multiple RTMs are on a single estate and there are shared grounds, no one of those RTMs can take over those grounds and so they remain with the freeholder. It does not preclude those blocks from managing their own buildings, merely that the shared parts with other blocks will continue to be maintain by the freeholder. In the case of CBW, this supreme court determination is irrelevant. The car park spans under every building on the CBW estate and as such, the RTM will take over all buildings and shared grounds of the whole estate.

We hope the above proves useful and we look forward to presenting our services in due course should that be the will of the leasehold owners.

Kind Regards,



David Breare
Director
Canonbury Management
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