

Real Estate
Case Law Update
Rosling King LLP



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Case Summary

In a recent decision from of the Court of Appeal, the Lord Justice Newey considered whether a shared ownership lease where the tenant's share is less than 100% is a long lease for the purposes of the Commonhold and Leasehold Reform Act 2002. The significance being that if a shared ownership lease of less than 100% is a long lease for the purpose of that Act, then the tenants can apply for a right to manage the building.

Lord Justice Newey determined that a shared ownership lease granted for a term exceeding 21 years is a long lease within the meaning of section 76 of the Commonhold and Leasehold Reform Act 2002 regardless of whether the tenant has a 100% interest. Therefore, every shared ownership tenant would be a qualifying tenant for the purposes of that Act. In the view of the Judge, the tenants have an obvious interest in how the premises are managed, especially as they will typically pay full service charges despite having less than 100% ownership.

The other justices were in agreement with Lord Justice Newey. It is clear that in their interpretation of the legislation, the justices considered whose interest was most greatly affected by the management of the Property, a point not restricted to the greatest financial interest in the share of the ownership.

For further information, please contact [Ann Ebberson](#) or the Partner with whom you usually deal.