



**FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)**

Case reference : **LON/00AH/LOA/2023/0003**

Property : **32 Outram Road, Croydon CR0 2XE**

Applicant : **32 Outram Road RTM Company Limited**

Representative : **RTMF Services Limited**

Respondent : **Assethold Limited**

Representative : **Eagerstates Limited**

Type of application : **No Fault – Right to Manage
Section 84(3) of the Commonhold and
Leasehold Reform Act 2002**

Tribunal member : **Judge Tagliavini**

Venue : **10 Alfred Place, London WC1E 7LR**

Date of decision : **29 November 2023**

DECISION

The tribunal's decision

1. The tribunal finds the applicant is entitled to acquire the right to manage with effect from **29 February 2024**, being three months from the date the tribunal's decision becomes final.
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The application

2. The tribunal has received an application under section 84(3) of the Commonhold and Leasehold Reform Act 2002 ("the Act") for a decision that, on the relevant date, the applicant RTM company was entitled to acquire the Right to Manage premises known as 32 Outram Road, Croydon CRO 2XE ("the premises").

Background

3. By a claim notice dated 6 April 2023, the Applicant gave notice that it intends to acquire the Right to Manage the premises on 23 August 2023. By counter notice dated 15 May 2023 the Respondent freeholder disputed the claim alleging that the Applicant had failed to establish compliance with section 78(1) and 79(2) of the Act.

The issues

4. The tribunal has identified a single issue to be decided namely whether on the date on which the notice of claim was given, the Applicant was entitled to acquire the Right to Manage the premises specified in the notice.
5. In a Statement of Case dated 12 September 2023 the respondent asserted the applicant's Notice of Invitation was addressed to the old owners of Flat 8, being Ian Lomas & Francisco Javier Alcazar Casas. However, the leaseholder was Mr J P L M Smith. Therefore, in view of the automatic transfer of management functions, both under the Leases and under statute, the Respondent wishes ascertain whether the Right to Manage process has been undertaken in accordance with the provisions of the 2002 Act, to ensure that whilst the intentions of the Applicant are to take over the Right to Manage and that it is executed in a valid process in accordance with the 2002 Act so the Respondent may have certainty in its position and release of its statutory obligations.
6. In response the applicant asserted that on 28 February 2023 notice inviting participation was served on the qualifying tenant of Flat 8, namely Ian Lomas and Francisco Javier Alcazar Casas, the registered legal owners of Flat 8 as of that date. As section 27(1) of the Land Registration Act 2002 specifies the disposition of a registered estate or

charge does not operate in law until the relevant registration requirements are met. Therefore, the notice of participation served on the then registered owners of Flat 8 was effective and the Notice of Claim correct in law; *Malferna House RTM Company Limited v Assethold Limited* LON/00AM/LRM/2020/0012.

The hearing

7. As neither party requested an oral hearing the application was determined on the papers provided in the form of a bundle of 62 (electronic) pages.

The tribunal's reasons

8. The tribunal is satisfied the applicant has validly served the invitation to participate on the legal registered owners of Flat 8 at the date of service. Further, the tribunal is satisfied that although the leasehold interest in Flat was subsequently acquired by Mr J P L M Smith, this transaction did not invalidate the applicant's Notice of Claim.
9. Therefore, the tribunal finds the applicant's entitlement to acquire the right to manage the subject premises takes effect three months from the date the tribunal's decision becomes final i.e. on **29 February 2024** pursuant to section 90(4) of the Commonhold and Leasehold Reform Act 2002.

Name: Judge Tagliavini

Date: 29 November 2023

Rights of appeal

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the tribunal is required to notify the parties about any right of appeal they may have.

If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber), then a written application for permission must be made to the First-tier Tribunal at the regional office which has been dealing with the case.

The application for permission to appeal must arrive at the regional office within 28 days after the tribunal sends written reasons for the decision to the person making the application.

If the application is not made within the 28-day time limit, such application must include a request for an extension of time and the reason for not complying with the 28-day time limit; the tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed, despite not being within the time limit.

The application for permission to appeal must identify the decision of the tribunal to which it relates (i.e. give the date, the property and the case number), state the grounds of appeal and state the result the party making the application is seeking.

If the tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).