



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

Case Reference : CHI/18UB/LRM/2023/0003

Property : Clare House, Lyme Street, Axminster,
Devon EX13 5DS

Applicant : Clare House RTM Company Limited
Andrew.belmont@scottrowe.co.uk

Representative : Scott Rowe Limited

Respondent : Christopher Chanter
Christo.chanter@talk21.com

Representative :

Type of Application : Application relating to Right to Manage
Section 84(3) Commonhold and Leasehold
Reform Act 2002

Tribunal Member(s) : D Banfield FRICS, Regional Surveyor

Date of Decision : 22 December 2023

DECISION

The Tribunal confirms that the Applicant is entitled to acquire the Right to Manage of Clare House, Lyme Street, Axminster, Devon EX13 5DS.

Background

1. The Applicant seeks a determination pursuant to section 84 (3) of the Commonhold and Leasehold Reform Act 2002 (the 2002 Act) that it was on 2 March 2023 entitled to acquire the right to manage the Property. The Applicant has produced a copy of a notice of claim to acquire the right to manage dated 2 March 2023 and a form of counter notice from the Respondent dated 5 April 2023. The counter notice states that the Respondent objects to the Applicant acquiring the right to manage on the grounds that he contends that monies are owed to him by the lessees at the Property. The counter notice also states that the Respondent claims the right to insure the freehold of the Property.
2. The counter notice does not contain the particulars that are required to be contained in a counter notice as prescribed by the Right to Manage (Prescribed Particulars and Forms) (England) Regulations 2010. Further, the notice does not refer to a specified provision of Chapter 1 of Part 2 of the 2002 Act as to why it is contended that the Applicant is not entitled to acquire the right to manage the Property. An allegation that monies are owed to the Respondent is not a ground to oppose an application of this nature. Nor is a claim to retain the right to insure the property ground to oppose an application.
3. On 7 November 2023 Judge Jutton directed that the Tribunal considered that this application is likely to be suitable for determination on the papers in accordance with rule 31 of the Tribunal Procedure Rules 2013 and that if the Respondent wished to oppose the application he should send to the Tribunal and to the Applicant a written statement of case addressing the validity of the counter notice and setting out the grounds, if any, upon which he wishes to oppose the application by reference to the provisions of Chapter 1 of Part 2 of the 2002 Act.
4. On 27 November 2023 the Respondent emailed the Tribunal that he wished to withdraw his objection and this was confirmed the same day by his Case management Application.
5. In these circumstances the Tribunal confirms that the Applicant is entitled to acquire the Right to Manage of Clare House, Lyme Street, Axminster, Devon EX13 5DS.

D Banfield FRICS

22 December 2023

Schedule

Extracts from the Commonhold and Leasehold Reform Act 2002

72 Premises to which Chapter applies

- (1) This Chapter applies to premises if—
- (a) they consist of a self-contained building or part of a building, with or without appurtenant property,
 - (b) they contain two or more flats held by qualifying tenants, and
 - (c) the total number of flats held by such tenants is not less than two-thirds of the total number of flats contained in the premises.
- (2) A building is a self-contained building if it is structurally detached.
- (3) A part of a building is a self-contained part of the building if—
- (a) it constitutes a vertical division of the building,
 - (b) the structure of the building is such that it could be redeveloped independently of the rest of the building, and
 - (c) subsection (4) applies in relation to it.
- (4) This subsection applies in relation to a part of a building if the relevant services provided for occupiers of it—
- (a) are provided independently of the relevant services provided for occupiers of the rest of the building, or
 - (b) could be so provided without involving the carrying out of works likely to result in a significant interruption in the provision of any relevant services for occupiers of the rest of the building.

74 RTM companies: membership and regulations

- (1) The persons who are entitled to be members of a company which is a RTM company in relation to premises are—
- (a) qualifying tenants of flats contained in the premises, and
 - (b) from the date on which it acquires the right to manage (referred to in this Chapter as the “*acquisition date*”), landlords under leases of the whole or any part of the premises.

76 Long leases

- (1) This section and [section 77](#) specify what is a long lease for the purposes of this Chapter.
- (2) Subject to [section 77](#), a lease is a long lease if—
- (a) it is granted for a term of years certain exceeding 21 years, whether or not it is (or may become) terminable before the end of that term by notice given by or to the tenant, by re-entry or forfeiture or otherwise,

79 Notice of claim to acquire right

- (1) A claim to acquire the right to manage any premises is made by giving notice of the claim (referred to in this Chapter as a “*claim notice*”); and in this Chapter the “*relevant date*”, in relation to any claim to acquire the right to manage, means the date on which notice of the claim is given.

84 Counter-notices

(1) A person who is given a claim notice by a RTM company under [section 79\(6\)](#) may give a notice (referred to in this Chapter as a “*counter-notice*”) to the company no later than the date specified in the claim notice under [section 80\(6\)](#).

(3) Where the RTM company has been given one or more counter-notices containing a statement such as is mentioned in subsection (2)(b), the company may apply to [the appropriate tribunal]¹ for a determination that it was on the relevant date entitled to acquire the right to manage the premises.

(4) An application under subsection (3) must be made not later than the end of the period of two months beginning with the day on which the counter-notice (or, where more than one, the last of the counter-notices) was given.

(5) Where the RTM company has been given one or more counter-notices containing a statement such as is mentioned in subsection (2)(b), the RTM company does not acquire the right to manage the premises unless—

(a) on an application under subsection (3) it is finally determined that the company was on the relevant date entitled to acquire the right to manage the premises, or

(b) the person by whom the counter-notice was given agrees, or the persons by whom the counter-notices were given agree, in writing that the company was so entitled.

(6) If on an application under subsection (3) it is finally determined that the company was not on the relevant date entitled to acquire the right to manage the premises, the claim notice ceases to have effect.

(7) A determination on an application under subsection (3) becomes final—

(a) if not appealed against, at the end of the period for bringing an appeal, or

(b) if appealed against, at the time when the appeal (or any further appeal) is disposed of.

90 The acquisition date

(1) This section makes provision about the date which is the acquisition date where a RTM company acquires the right to manage any premises.

(2) Where there is no dispute about entitlement, the acquisition date is the date specified in the claim notice under [section 80\(7\)](#).

(3) For the purposes of this Chapter there is no dispute about entitlement if—

(a) no counter-notice is given under [section 84](#), or

(b) the counter-notice given under that section, or (where more than one is so given) each of them, contains a statement such as is mentioned in [subsection \(2\)\(a\)](#) of that section.

(4) Where the right to manage the premises is acquired by the company by virtue of a determination under [section 84\(5\)\(a\)](#), the acquisition date is the date three months after the determination becomes final.

Appeals

1. A person wishing to appeal this decision to the Upper Chamber must seek permission to do so by making written application to the First-tier Tribunal at the Regional office which has been dealing with the case.
2. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision. Where possible you should send your further application for permission to appeal by email to **rpsouthern@justice.gov.uk** as this will enable the First-tier Tribunal to deal with it more efficiently.
3. If the person wishing to appeal does not comply with the 28-day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28-day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.
4. The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking.