



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

Case reference : **BIR/00CW/LRM/2023/0002**

Properties : **Lowbridge Walk, Bilston, West
Midlands, WV14 6BP**

Applicant : **Lowbridge Walk (Conversion) RTM
Company Limited**

Representative : **RTMF Services Limited (ref: LWC/NB)**

Respondents : **Claremont Bilston (Management
Company) Limited**

Representative : **Jobsons Solicitors**

Type of application : **An application relating to (No Fault)
Right to Manage – Chapter 1 of the
Commonhold and Leasehold Reform
Act 2002 (“the Act”)**

Tribunal member : **Judge C Goodall**

**Date and place of
hearing** : **Paper determination**

Date of decision : **1 February 2024**

DECISION

Background

1. The Applicant is a specially created company, formed for the purpose of acquiring the right to manage a block of 29 flats at Lowbridge Walk, Bilston, West Midlands, WV14 6BP (“the Premises”) under Part 2 of the Commonhold and Leasehold Reform Act 2002 (“the Act”).
2. Through its agent, on 19 January 2023, the Applicant served a Claim Notice seeking the right to manage Lowbridge Walk. The Notice was served on three recipients, being Abacus Land 4 Ltd, Claremont Bilston (Management Company) Ltd, and Hill Ground Rents Ltd.
3. On 22 February 2023, solicitors for Claremont Bilston (Management Company) Ltd served a Counter Notice disputing the Applicant’s right to acquire the right to manage, on four grounds:
 - a. The property over which the right to manage is being sought does not comprise a self-contained building or part of a building, with or without appurtenant property, contrary to section 72(1)(a) of the Act as there are three separate buildings;
 - b. An invitation to participate had not been given to all qualifying tenants contrary to section 78(1)(a) of the Act;
 - c. Notices of invitation to participate have not correctly identified the recipients, contrary to section 78(3) of the Act;
 - d. A notice of invitation to participate had not been given to each person required to be given a notice, contrary to section 79(2) of the Act
4. On 11 April 2023, the Tribunal received an application for a determination that the Applicant had acquired the right to manage the Premises.
5. Directions were issued on 21 June 2023 requiring:
 - a. The Applicant to provide a statement of case, by 12 July 2023, explaining why the Respondent’s Counter Notice did not justify refusal of the right to manage;
 - b. The Respondent to provide a Response to the Applicant’s statement of case by 26 July 2023;
 - c. The Applicant to respond to the Response.
6. The Applicant complied with the Direction at 5a above on 29 June 2023.
7. The Respondent has not complied with Direction 5b. On 3 October 2023, the Tribunal issued a barring warning notice to the Respondent. On 26 January 2024, the Tribunal barred the Respondent from taking any further part in the proceedings or any part of them.

Law

8. The Act contains a significant body of procedural requirements before a right to manage is acquired. I shall not set out or consider any save for those raised by the Respondent in its Counter Notice, as I rely upon the content of the Claim Notice, which sets out in general terms how the Applicant complies with those procedural requirements.
9. In the Counter Notice, the Respondent raised compliance with sections 72(1)(a), 78(1)(a), 78(3) and 79(2). Those provisions are:

72 (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,

...

78 (1) Before making a claim to acquire the right to manage any premises, a RTM company must give notice to each person who at the time when the notice is given—

(a) is the qualifying tenant of a flat contained in the premises, but

(b) neither is nor has agreed to become a member of the RTM company.

...

78(3) A notice of invitation to participate must also comply with such requirements (if any) about the form of notices of invitation to participate as may be prescribed by regulations so made.

...

79(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.

(2) The claim notice may not be given unless each person required to be given a notice of invitation to participate has been given such a notice at least 14 days before.

Discussion

10. I Consider each of the four reasons set out in the Counter Notice as identified in paragraph 3 above.

Reason 3(a)

11. The Applicant’s representative has confirmed in its statement of case that there are three buildings on Lowbridge Walk but the building over which the right to manage is sought is a single building that containing 29 flats. The detail is clearly set out in paragraph 2 of the Claim Notice. Separate

right to manage applications are being made in respect of the other two buildings on the site, one of which contains 6 flats, and other of which contains 2 flats.

12. The evidence therefore supports the conclusion that the building at Lowbridge Walk containing 29 flats is the sole building over which the right to manage is sought. That building complies with section 72(1)(a) of the Act.

Reason 3(b)

13. The Applicant has provided copies of each of the eight section 78 Notices to Participate that it served. Notice must be served on each of the lessees of the Premises who are not members of the RTM company at the time the notice inviting participation was served. The notice inviting participation must identify the names of the members of the RTM company at the date of the notice inviting participation.
14. All eight notices appear to me to be in proper form. They are all dated 20 December 2022. They all list the 21 members of the RTM company who were members of it at that date. I have been supplied with official copies of the Land Register for all eight recipients which all confirm that the recipients were the registered proprietors as at the date of the notice inviting participation.
15. I am satisfied that on the basis of this information, section 78(1) of the Act has been complied with.

Reason 3(c)

16. I do not understand the issue raised here. The Counter Notice says that section 78(3) has not been complied with as “the notices of invitation to participate have not correctly identified the recipients”.
17. Section 78(3) does not deal with identification of recipients of the notice of invitation. It deals with the form of the notice. The Counter Notice has not specified what objection there is to the form used.
18. I cannot see any merit in the point raised in this objection.

Reason 3(d)

19. This objection raises the same issue as is raised in reasons 3(b) and 3(c). I am satisfied that the invitation to participate was given to all lessees who were not members of the RTM company at the time that the notice to participate was given.

Decision

20. My conclusion is that none of the issues raised by the Respondent in its Counter Notice are valid reasons to prevent the Applicant from acquiring the right to manage the Premises.
21. I therefore determine that as at the relevant date (which was the date the Claim Notice was given), the Applicant was entitled to acquire the right to manage the Premises.

Appeal

22. Any appeal against this decision must be made to the Upper Tribunal (Lands Chamber). Prior to making such an appeal the party appealing must apply, in writing, to this Tribunal for permission to appeal within 28 days of the date of issue of this decision (or, if applicable, within 28 days of any decision on a review or application to set aside) identifying the decision to which the appeal relates, stating the grounds on which that party intends to rely in the appeal, and stating the result sought by the party making the application.

Judge C Goodall
First-tier Tribunal (Property Chamber)