



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

**Case reference** : **LON/00AF/LRM/2023/0034**

**Property** : **Beney Court, 18 Fairfield Road,  
Beckenham BR3 3LD**

**Applicant** : **18 Fairfield Road (Beckenham)  
RTM Company Limited**

**Representative** : **Stephen Wiles of Prime  
Management (PS) Limited**

**Respondent** : **Chancery Lane Investments  
Limited**

**Representative** : **Not represented**

**Type of application** : **Right to Manage**

**Tribunal members** : **Judge P Korn**

**Date of determination** : **15 January 2024**

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**DECISION**

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## **Description of hearing**

This has been a remote hearing on the papers. An oral hearing was not held because the Applicant confirmed that it would be content with a paper determination, the Respondent did not object and the tribunal agrees that it is appropriate to determine the issues on the papers alone. The documents to which I have been referred are in an electronic bundle, the contents of which I have noted. The decision made is described immediately below under the heading “Decision of the tribunal”.

## **Decision of the Tribunal**

The Applicant was entitled on the relevant date to acquire the right to manage in respect of the Property.

## **The application**

1. The Applicant seeks a determination pursuant to section 84(3) of the Commonhold and Leasehold Reform Act 2002 (“**the Act**”) that on the relevant date it was entitled to acquire the right to manage the Property.

## **Background**

2. By a claim notice dated 12 October 2022 the Applicant gave notice to the Respondent that it intended to acquire the right to manage in relation to the Property on 1 March 2023.
3. The Respondent gave a counter-notice on 23 November 2022 alleging that the Applicant was not entitled to acquire the right to manage, and then on 29 December 2022 the Applicant applied to the tribunal for a determination that it was entitled to acquire the said right on the relevant date.

## **Respondent’s position**

4. The Respondent has made no submissions explaining why it asserts that the Applicant was not entitled to acquire the right to manage on the relevant date.

## **Applicant’s case in response**

5. The Applicant states that the Property is a purpose-built development of thirteen (13) flats. The Applicant notes that the reason given by the Respondent for opposition to the Applicant’s claim was “by reason of section 78” of the Act. The Applicant goes on to state that the Respondent has not complied with the directions issued by the tribunal

and has not submitted a statement of case. As such, says the Applicant, it is difficult to understand the reasons for opposition in full and that all that can be assumed is that the Respondent has in some way formed the view that section 78 has not been complied with.

6. The Applicant states that the Property consists of 11 flats. As is apparent from the claim notice, 10 of the flats contained qualifying tenants that were members of the right to manage (“RTM”) company as at the date of service of the claim notice. The only qualifying tenant that had not agreed to be a member of the RTM company was the tenant of Flat 7. A notice of invitation to participate dated 8 June 2022 was served on this tenant, at both the flat and an alternate address obtained from land registry records. The Applicant contends that the notice of invitation complies with the requirements of section 78 in full as it is in the correct form and contains the required information. As such, section 78 has been complied with in full.

### **Relevant legislation**

7. *Commonhold and Leasehold Reform Act 2002*

#### *Section 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.*

*(2) A notice given under this section (referred to ... as a “notice of invitation to participate”) must – (a) state that the RTM company intends to acquire the right to manage the premises, (b) state the names of the members of the RTM company, (c) invite the recipients of the notice to become members of the company, and (d) contain such other particulars (if any) as may be required to be contained in notices of invitation to participate by regulations made by the appropriate national authority.*

*(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.*

*(4) A notice of invitation to participate must either – (a) be accompanied by a copy of the articles of association of the RTM company, or (b) include a statement about inspection and copying of the articles of association of the RTM company.*

*(5) A statement under subsection (4)(b) must – (a) specify a place (in England and Wales) at which the articles of association may be inspected, (b) specify as the times at which they may be inspected periods of at least two hours on each of at least three days (including a Saturday or Sunday or both) within the seven days beginning with the day following that on which the notice is given, (c) specify a place (in England and Wales) at which, at any time within those seven days, a copy of the articles of association may be ordered, and (d) specify a fee for the provision of an ordered copy, not exceeding the reasonable cost of providing it.*

*(6) Where a notice given to a person includes a statement under subsection (4)(b), the notice is to be treated as not having been given to him if he is not allowed to undertake an inspection, or is not provided with a copy, in accordance with the statement.*

*(7) A notice of invitation to participate is not invalidated by any inaccuracy in any of the particulars required by or by virtue of this section.*

### **Tribunal's analysis**

8. The Respondent has alleged non-compliance with section 78 of the Act but has made no submissions in support of its position. It is therefore entirely unclear on what basis the Respondent challenges the acquisition by the Applicant of the right to manage on the relevant date or whether it even believes that the Applicant failed to comply with section 78 and/or believed that it had so failed as at the date of service of the counter-notice.
9. Based on the Applicant's written submissions before me the Applicant appears to have complied with section 78 of the Act, and it is not the tribunal's role – in the absence of any submissions from the Respondent – to trawl through all of the documentation in detail to try to work out whether the Respondent might have had any proper grounds for objecting if it had articulated them.
10. Accordingly, the Applicant acquired the right to manage on the relevant date.

**Name:** Judge P Korn

**Date:** 15 January 2024

## **RIGHTS OF APPEAL**

- A. If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber) a written application for permission must be made to the First-tier Tribunal at the regional office dealing with the case.
- B. 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.
- C. If the application is not made within the 28 day time limit, such application must include a request for extension of time and the reason for not complying with the 28 day time limit; the Tribunal will then look at such reason and decide whether to allow the application for permission to appeal to proceed despite not being within the time limit.
- D. 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.