



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

Case reference : **LON/00AQ/LRM/2023/0045**

Property : **Chandos Court, Whitchurch Avenue,
Edgware, HA8 6HR**

Applicant : **Chandos Court RTM Company Ltd**

Representative : **The Leasehold Advice Centre (Mr Philip
Bazin)**

Respondent : **Assethold Ltd**

Representative : **Mr Ronni Gurvits**

Type of application : **Application in relation to the denial of
the Right to Manage under s.84(3) of the
Commonhold and Leasehold Reform
Act 2002**

Tribunal members : **Judge Rosanna Foskett, Mr Richard
Waterhouse MA LL.M FRICS**

Date of Decision : **18 April 2024 (on the papers)**

DECISION

DECISION

1. The Tribunal determines that the Applicant RTM company was entitled to acquire the Right to Manage the property known as Chandos Court, Whitchurch Avenue, Edgware, Middlesex, HA8 6HR (“the premises”) on the day on which the Notice of Claim was given in August 2023.

BACKGROUND

2. By a notice of claim signed on 4 August 2023 and sent on 5 August 2023 by first class post, the Applicant gave notice to the Respondent (which is the freeholder

of the premises¹) that it intended to acquire the Right to Manage the premises on 15 December 2023.² The Applicant did not provide the Notice of Claim dated 4 August 2023 to the Tribunal in the e-bundle, but:

- a. it is referred to in the Tribunal's Directions of 5 December 2023; and
- b. the Respondent's counter-notice dated 14 September 2023 which was included in the e-bundle also refers to a date of 9 August 2023 as being the relevant date on which the Applicant's entitlement was to be assessed, thus indicating that a notice dated in early August 2023 must have been served and received.

The Tribunal therefore has no reason to doubt that it was served. The Tribunal has explained below its findings in relation to what documents were served and when (under "Reasons for Decision").

3. By a counter notice dated 14 September 2023,³ the Respondent, acting at that point by solicitors, disputed the claim alleging that the Applicant has failed to establish compliance with section 78(2)(b) of the Act, namely that the notice of invitation to participate does not state the names of the members of the RTM company.
4. The Tribunal received an application under section 84(3) of the Act dated 24 October 2023 for a decision that, on the relevant date, the applicant RTM company was entitled to acquire the Right to Manage the premises.
5. The Tribunal gave directions on 5 December 2023 for the determination of the matter. The single issue to be decided (as explained in those directions) is 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 that notice.
6. As neither party requested an oral hearing the application was determined on the papers provided in the form of an e-bundle of 154 pages.
7. It is noted that the Respondent did not provide a Statement of Case/legal submissions/documents by the deadline set out in the directions (19 January 2024) or at all.
8. The Respondent was represented by solicitors until 19 January 2024.

REASONS FOR DECISION

9. The premises comprise a purpose-built standalone residential block of self-contained residential flats. Originally, there were six (Flats 1 to 6), with 2 additional flats (Flats 7 and 8) added to the top floor some years later.

¹ See Office Copy Entry at page 113 of the e-bundle.

² A previous application relating to the premises was withdrawn when it was discovered that the Articles for the Applicant RTM company did not specify an address for the premises. The Articles were subsequently corrected to include the address and a definition of the premises and a further notice was then served on 5 August 2023, with a counter notice being served on 14 September 2023. It is those two notices to which this application relates.

³ See letter of service from the Respondent's solicitors date 14 September 2023 at page 78 of the e-bundle with attached counter notice at page 79.

10. All 8 flats have been sold on 99-year leases.
11. The Respondent is the freeholder of the premises.
12. At the date on which the Applicant RTM company was formed (13 April 2022), the registered proprietors of 5 of the 8 flats (Flats 1, 2, 6, 7 and 8) became members of the company.⁴
13. The registered proprietors of Flats 4 and 5 became members of the company later:
 - a. The qualifying tenants at Flat 5 applied for membership by a signed notice dated 22 June 2022 and acquired membership on 17 July 2022.⁵
 - b. The qualifying tenants at Flat 4, who had purchased the flat and were registered as proprietors on 10 November 2022, applied for membership by a signed notice dated 10 January 2023⁶ (having been served with a Notice of Invitation in November 2022) and acquired membership on 2 March 2023.⁷
14. Notices of Invitation were served on the lessees of all flats on around 28 October 2022. An example was provided in the e-bundle at pages 45-49.
15. The only qualifying tenant which has never been a member of the Applicant is that of Flat 3 (registered proprietor: Mountview Estates plc⁸). No application for membership has ever been received and Mountview Estates plc wrote to the Applicant on 14 November 2022 in respect of Flat 3 to say that they did not wish to participate.⁹
16. The Notices of Invitation stated that there were 6 members of the Applicant company (being the lessees of Flats 1, 2, 5, 6, 7 and 8). When they were sent (28 October 2022), that was accurate because the Flat 4's lessees did not become members until early March 2023.
17. By the time the Notice of Claim was sent (on 28 March 2023), Flat 4's lessees had become members, as explained above. The Notice of Claim included the lessees of all flats, apart from Flat 3, in the list of persons who are both qualifying tenants and members of the company (see pages 66-67 of the e-bundle).
18. The Respondent has not identified the specific reason(s) why it says that section 78(2)(b) has not been complied with, but it is reasonable to assume that it relies on the omission of Flat 4 from the list of members in the Notice of Intention.
19. However:
 - a. At the date of the Notices of Invitation, Flat 4's lessees were not members;

⁴ See Register of company members at page 25 of the e-bundle.

⁵ See signed Application for Membership at page 26 of the e-bundle and the updated Register at page 27.

⁶ See page 50 of the e-bundle.

⁷ See updated Register at page 51 of the e-bundle.

⁸ See Office Copy Entry for the leasehold title to Flat 3 starting at page 127 of the e-bundle.

⁹ See page 39 of the e-bundle.

- b. In any event, if there were such an omission, it would fall within section 78(7) of the Act, ie it is an “*inaccuracy in any of the particulars required*” in a notice of invitation by reason of section 78 and, accordingly, the Notice of Intention was not invalidated by the omission.
20. This was pointed out to the Respondent by the Applicant’s representative by letter as early as 26 September 2023 and yet the Respondent has taken no steps since then to clarify whether it in fact agrees that the Applicant was entitled to acquire the Right to Manage or whether it pursues its objection and, if so, on what ground(s).
21. In addition to the Tribunal’s rejection of the Respondent’s assertion that section 78(2)(b) of the Act was not complied with, the Tribunal also considers the Respondent’s conduct from a case management point of view to have resulted in a waste of the parties’ time and resources and that of the Tribunal’s. It has been on notice of the Applicant’s position since 26 September 2023 (at which time the Respondent in fact had solicitors acting for it) and yet it chose to take no action in clarifying its position or providing any evidence or submissions in support of its position. The letter of 26 September 2023 also put the Respondent on notice that the Applicant would seek reimbursement of the application and hearing fees and the Respondent has failed to take the opportunity since then to make any submissions on that application. The Tribunal considers it appropriate to order the reimbursement of the application and hearing fees by the Respondent to the Applicant pursuant to rule 13(2) of the Tribunal Procedure (First-Tier Tribunal) (Property Chamber) Rules 2013.

**Name: Judge Rosanna Foskett, Mr
Richard Waterhouse MA LL.M FRICS**

Date: 18 April 2024

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).