



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

**Case Reference** : **CHI/00HN/LCP/2024/0002**

**Property** : **Lansdowne Manor, 55 Lansdowne Road,  
Bournemouth BH1 1RN**

**Applicant** : **Assethold Limited**

**Representative** : **Scott Cohen Solicitors Limited**

**Respondent** : **Managingbyeus Limited**

**Representative** : **In person**

**Type of Application** : **Application to decide the costs to be paid by  
an RTM company under section 88(4) of  
the Commonhold and Leasehold  
Reform Act 2002**

**Tribunal Members** : **Judge Paul Letman M.B.E.**

**Date and venue of** : **10 September 2024 (Assigned notional  
hearing date)**

**Hearing** : **On Paper**

**Date of Decision** : **08 October 2024**

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**DECISION & ORDER**

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## **Introduction**

1. By an application dated 1 February 2024 the Applicant seeks an order under section 88(4) of the Commonhold and Leasehold Reform Act 2002 ('the 2002 Act') as to the amount of costs payable to it by the Respondent RTM Company in consequence of a claim notice given on 30 June 2022 by the Respondent to acquire the right to manage the Property. The section can be found at <https://www.legislation.gov.uk/ukpga/2002/15/section/88>.
2. Directions were made on 11 July 2024 for the disposal of the application, including provision for the Applicant to send a statement setting out full details of its claim for costs by 31 July 2024 and the Respondent to send points of dispute by 21 August 2024.
3. Pursuant to the said directions, the Applicant duly provided its statement of case by the appointed date. This was served on Coles Miller Solicitors LLP, whom at the time were understood to be instructed for the Respondent. However, upon notice from Coles Miller that that was not the case, on 06 August 2024 the Applicant sent copy application, the directions and its statement of case directly to the Respondent. Nothing further has been heard in response.

## **The Applicant's Claim**

4. The Applicant's claim comprises two heads of cost; solicitor's costs and managing agent's fees. Neither are objectionable in principle (see *Columbia House Properties (no.3) Ltd v Imperial Hall RTM Company Limited* LRX/138/2012) provided they meet the statutory criteria under section 88(1), (2) and (3), in essence that they were incurred in consequence of the claim notice and are reasonable.
5. In respect of the solicitor's costs, the Applicant claims fees of £1,035.00 plus VAT for time spent of 1 hour and 48 minutes at the rate of £275 per hour and 3 hours and 36 minutes at the rate of £150.00 per hour, plus disbursements of £175.28 inclusive of VAT.
6. The costs incurred reflect sums billed by a Grade A solicitor at the £275 per hour and a Grade D at the £150 per hour. The Applicant contends that RTM is a niche area that requires the involvement of an experienced practitioner, but emphasises that it has utilised a Grade D fee earner where appropriate to reduce costs. Full substantiation is provided in the form of copy invoices and a schedule of costs in Form N260.
7. The managing agents fees of £450 plus VAT are claimed on the basis that this is an additional task, that falls outside the standard management activities and for which the agent was entitled to charge additional fees. It is pointed out that the managing agent is the address provided to leaseholders for service of notices upon the landlord and that the agent needs to take various steps upon receipt of the notice. These included reviewing contracts in place, insurance details, scheduled works

and ongoing services potentially affected by the RTM takeover, as well as assisting solicitors in gathering information regarding the property. Copy invoice dated 28 February 2024 from the managing agent, Eagerstates Limited, is provided, which contains a narrative description of the different tasks undertaken and the time engaged, amounting in total to 6 hours charged at £75 per hour plus VAT.

### **The Respondent's Points of Dispute**

8. As noted above, the Respondent has not responded to the claim, either when first advanced in correspondence nor in the course of these proceedings. Nonetheless, it remains the case that the Tribunal must scrutinise the claim and be satisfied that the sums sought are properly recoverable.

### **Determination**

9. The Tribunal accepts that it is reasonable for a Grade A fee earner (namely, Lorraine Scott) to undertake the relevant work in response to the claim, provided a Grade D (here, Millie Halewood) or the like is engaged where possible to reduce costs. That appears to have been done here, with sensible use of the different grades. Overall, Grade A incurred time being 1.8 hours and Grade D of 3.6 hours. Whilst their rates are compatible with the applicable HMCTS Guideline hourly rates (National 1).
10. Further, as to the detail of the costs, the narrative at paragraph 6 of the Applicant's statement of case, the information in the solicitor's invoice and the full breakdown in the N260 provided are of great assistance in understanding the time spent and in assessing each element of the costs billed. Thus, I note the attendances on client (party) totalling 0.9 hours, attendances on opponents at 0.8 hours, attendance on others at 1 hour and work on documents 1 hour Grade A and 1.7 hours Grade D (albeit recorded under Grade B). All of these time look eminently reasonable. As for the disbursements, given the returned to sender record from Royal Mail despite the counter-notice letters being correctly addressed, the additional courier cost also appears to be justified.
11. With regard to the solicitor's costs claimed, therefore, considering the rates charged, time spent, the division between grades and the substantiation for the disbursements, I am satisfied that the sums charged and claimed were incurred and are reasonable.
12. As to the managing agents fees, I am satisfied that the work done falls outside the standard management fee and is work for which the agent was entitled to charge additional fees. Although no copy of the management agreement is provided, the invoice refers to the charge being levied in accordance with the same. Indeed, as pointed out by the Applicant, this is consistent with the RICS Service Charges and Residential Management Code and reflects standard practice.

13. Further, with regard to the amount claimed, I accept that the tasks described in the invoice were properly undertaken by the managing agents, that the times taken appear reasonable and that the hourly charge also is by no means unreasonable. I am satisfied accordingly that this was a reasonable sum incurred in consequence of the claim notice, together with the solicitors costs above.
14. By way of a check, stepping back and considering the total fee of £1,957.28 (£1,417.28 plus £540), this does not appear to be outside the norm for a landlord dealing with such a notice claiming the right to manage, investigating the matter and serving a counter-notice. Overall in my judgement the total charge is a reasonable one that satisfies the test under section 88(3).
15. In the light of the conclusions above, I consider it is also just and equitable to allow the Applicant's application for reimbursement of the application fee.

### **Conclusion and Order**

16. In conclusion, having considered the detail of the costs claimed and for the reasons set out above:
  - (1) The Tribunal determines under section 88(4) of the 2002 Act and duly orders that costs in the sum of £1,957.28 are payable by the Respondent to the Applicant within 14 days of this decision; and,
  - (2) The Tribunal orders under rule 13(2) of the 2013 Rules that the Respondent shall also reimburse the application fee of £100 paid by the Applicant within 14 days of this decision.

**Name:** Judge Paul Letman

**Date:** 8 October 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 [rpsouthern@ejudiciary.net](mailto:rpsouthern@ejudiciary.net) 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).