



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

Case reference : **LON/00AJ/LCP/2024/0002**

Property : **Caldon House, Ashby House, Welford House, Northolt**

Applicant : **Trinity (Estates) Property Management Limited**

Representative : **None**

Respondent : **Guv Caldun & Ashby & Welford House RTM Company Limited**

Representative : **None**

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

Tribunal members : **Judge Sarah McKeown**

Date of decision : **4 November 2024**

DECISION

This has been a remote hearing on the papers. A face-to-face hearing was not held because no-one requested a hearing and all issues could be determined on paper. The documents to which the Tribunal was referred are in an electronic bundle of 21 pages, the contents of which the Tribunal has noted. The decision made is as set out below.

DECISION

The Tribunal determines that the Respondent shall pay to the Applicant costs in the sum of £887.40 pursuant to section 88 of the Commonhold and Leasehold Reform Act 2002.

The Application

References are to page numbers in the bundle provided for the hearing.

1. The Applicant seeks a determination under section 88(4) of the Commonhold and Leasehold Reform Act 2002 (“the Act”) of the amount of costs payable by the Respondent as a Right to Manage Company (“RTM Company”) (p.2). No agreement has been reached as to the s.88 costs and so the Applicant has made this application.
2. On 7 August 2024 the Tribunal gave directions (p.11) for the determination of this matter. The Tribunal considered this matter to be suitable to be determined without an oral hearing. The Directions provided that: “... any party may make a request for an oral hearing to determine the application”. Any such request was to be made by 27 September 2024.
3. Neither party requested a hearing.

The parties’ cases

4. The Applicant seeks costs of £887.40 as set out in its Statement of Costs (p.16). They relate to a Claim Notice dated 13 July 2022, served by the Respondent.
5. The Respondent disputes (p.18):
6. Reviewing Notice Inviting Participation & Perusing official copies of Land Registry titles to establish sufficient numbers of participating members - £469.80 sought and it is said it should be £261. It is said that the time spent was too long and a lesser time should have been taken by a Grade A fee earner or the task should have been carried out by a less experienced fee-earner.

7. Considering validity of the Claim Notice and seeking instructions - £78.30 sought and it is said it should be £26.10. It is said that this item is repetitive and should work should have been included in the item above.
8. The Applicant's response (p.19) sets out why it is said that it was appropriate that the work was done by a Grade A fee earner. Reasons are also given for the time spent and costs claimed.

Relevant Legislation

9. Section 88 of the Commonhold and Leasehold Reform Act 2002 provides:
 - (1) A RTM company is liable for reasonable costs incurred by a person who is-
 - (a) a landlord under a lease of the whole or any part of any premises,
 - (b) a party to such a lease otherwise than as landlord or tenant, or
 - (c) a manager appointed under Part 2 of the 1987 Act to act in relation to the premises, or any premises containing or contained in the premises, in consequence of a claim notice given by the company in relation to the premises.
 - (2) Any costs incurred by such a person in respect of professional services rendered to him by another are to be regarded as reasonable only if and to the extent that costs in respect of such services might reasonably be expected to have been incurred by him if the circumstances had been such that he was personally liable for all such costs.
 - (3) A RTM company is liable for any costs which such a person incurs as party to any proceedings under this Chapter before the appropriate tribunal only if the tribunal dismisses an application by the company for a determination that it is entitled to acquire the right to manage the premises.
 - (4) Any question arising in relation to the amount of any costs payable by a RTM company shall, in default of agreement, be determined by the appropriate tribunal.

Determination and Reasons

10. Applications under the 2002 Act are technical and this complex area of law requires a fee earner with the requisite knowledge and experience. In respect of both of the challenge items, the Tribunal considers that the time spent by the Applicant's solicitors was warranted. Ms. Taylor spent approximately 90 seconds obtaining and considering title documents for each member's flat and cross-referencing this information against the Claim Notice and the Applicant's database. One hour and 48 minutes to assess the leasehold titles and considering the Notices Inviting Participation is reasonable. Further, 18 minutes is reasonable for the work involved in considering the validity of the Claim Notice, which included checks at Companies House for details of the Respondent and its constitution, establishing whether the Property was detached and seeking instructions.
11. The total costs payable by the Respondent to the Applicant under section 88 of the Act are £887.40.

Judge Sarah McKeown
4 November 2024

Rights of appeal

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).