



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

**Case Reference** : **CAM/22UE/LRM/2023/0018**

**Property** : **82-84 High Street, Hadleigh, Benfleet,  
SS7 2PB**

**Applicant** : **82-84 High Street RTM Company  
Limited**

**Representative** : **The Leasehold Advice Centre**

**Respondent** : **Assethold Limited**

**Representative** : **Eagerstates Limited**

**Type of  
Application** : **Right to Manage**

**Tribunal Members** : **Judge Bernadette MacQueen**

**Date of Decision** : **2 December 2024**

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**Decision**

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**Decisions of the Tribunal**

1. The Tribunal determines that the building known as 82-84 High Street, Hadleigh, Benfleet, SS7 2PB (the Premises) is a self-contained building for the purposes of section 72(1) of the Commonhold and Leasehold Reform Act 2002 (the Act).

2. The Tribunal determines that on 31 January 2024, the Applicant was entitled to acquire the right to manage the Premises pursuant to section 84(5)(a) of the Act, and the Applicant will acquire such right within three months after this determination becomes final.
3. The Tribunal determines that the Respondent shall, within 28 days of this Decision, reimburse the Applicant for the application fee paid to the Tribunal.

### **The Application**

4. On 20 November 2023 the Applicant applied to the Tribunal under section 84(3) of the Commonhold and Leasehold Reform Act 2002 (the Act) for a decision that, on the relevant date, the Applicant RTM company was entitled to acquire the Right to Manage (RTM) in relation to a building known as 82-84 High Street, Hadleigh, Benfleet, SS7 2PB (the Premises).
5. By claim notice dated 13 September 2023 and served on 15 September 2023, the Applicant gave notice that it intended to acquire the RTM on 31 January 2024.
6. By a counter-notice dated 27 October 2023, the Respondent alleged that on 22 September 2023 the Applicant was not entitled to acquire the right to manage the Premises because the Applicant had failed to establish compliance with section 72(1) of the Act namely that “these are not premises to which the section applied”.
7. On 3 November 2023 the Applicant wrote to the Respondent to seek clarification as to why the Respondent had stated that by reason of section 72(1) of the Act the Premises were not premises to which the section applied. However, the Applicant stated that no reply had been

received from the Respondent and so an application had been made to this Tribunal.

8. On 27 August 2024 the Tribunal gave Directions which identified the issues to be decided as whether on the date on which the notice of claim was given, the Applicant was entitled to acquire the RTM of the Premises.
9. Directions were made for parties to send to each other and the Tribunal written documentation. In particular, the Respondent was directed to send a bundle of documents to the Applicant and the Tribunal. The bundle of documents was to include a statement of case as to the reasons for opposing the RTM and confirming precisely why it claimed that section 72 of the Act did not apply to the Premises. This documentation was to be sent to the Tribunal and the Applicant by 24 September 2024.
10. A request for additional time to prepare was received from the Respondent and so on 14 October 2024 further directions were made extending the Respondent the Respondent had to provide the Tribunal with documents until 23 October 2024. However, the Respondent has not provided any documents nor an explanation as to why documents have not been provided.
11. The Applicant provided the Tribunal with a 138-page bundle of documents, which included the claim notice and counter claim, statement and further particulars, Memorandum and Articles of Association, Register of Members, Certificate of Incorporation of the Applicant dated 22 May 2023 and Register of Guarantee Company members and relevant Office Copies.
12. The Directions made on 27 August 2024 stated that the application could be determined without a hearing unless a hearing was requested by either party. No such request has been received and the Tribunal is satisfied that this matter can be determined without a hearing.

## **Issues in Dispute**

13. The Respondent has not provided any detail as to why it says that the Premises are not premises to which section 72(1) of the Act applies.
14. The Tribunal therefore needs to determine whether the Premises fall within section 72(1) of the Act.

## **The Law**

15. Chapter 1 of Part 2 of the Act provides for an RTM company to acquire the right to manage premises to which the Chapter applies if the following conditions are satisfied:
  - (i) The premises must be a self-contained building or part of a building, with or without appurtenant property which contains two or more flats held by qualifying tenants (section 72).
  - (ii) The RTM company must be a company limited by guarantee whose objects include the acquisition and exercise of the right to manage the premises in question (section 73(2)).
  - (iii) At the date of service of the claim notice the members of the RTM company must be at least two in number and must be qualifying tenants of at least half of the flats in the premises (section 79(4)-(5)).
  - (iv) At least 14 days before serving the claim notice the RTM company must have served a notice of invitation to participate on all qualifying tenants who are not members

of the RTM company and have not agreed to become a member (section 78(1)).

- (v) A claim notice must be served on the landlord under a lease of the whole or part of the premises, any third party to such a lease, and any appointed manager (section 79(6)).
- (vi) By section 84(1) a person who receives a claim notice may give a counter notice disputing the RTM company's entitlement to acquire the right to manage the premises.

16. Section 72 specifies the qualifying rules in respect of premises to which the RTM applies:

(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
- (b) they contain two or more flats held by qualifying tenants, and
- (c) the total number of flats held by such tenants is not less than two thirds of the total number of flats contained in the premises.

(2) A building is a self-contained building if it is structurally detached.

(3) A part of a building is a self-contained part of the building if

- (a) it constitutes a vertical division of the building,

(b) the structure of the building is such that it could be redeveloped independently of the rest of the building, and

(c) subsection (4) applies in relation to it.

(4) This subsection applies in relation to a part of a building if the relevant services provided for occupiers of it –

(a) are provided independently of the relevant services provided for occupiers of the rest of the building, or

(b) could be so provided without involving the carrying out of works likely to result in a significant interruption in the provision of any relevant services for occupiers of the rest of the building.

(5) Relevant services are services provided by means of pipes, cables or other fixed installations.

(6) Schedule 6 (premises excepted from the Chapter) has effect.  
[Buildings with substantial non-residential parts]

## **The Premises**

17. The Premises is comprised of a property which has been converted into six self-contained flats sold on long leases. The Respondent is the freehold owner.

18. The freehold to the Premises is registered under a single title (title number EX865955) and the title contains a schedule of notices of leases as follows:

Property Description	Lessee Title	Date and Term of Lease
Flat 1	EX961938	25/10/2017 – 125 year
Flat 2	EX969723	21/11/2017 – 125 years
Flat 3	EX957618	26/06/2017 – 125 years
Flat 4	EX960951	28/09/2017 – 125 years
Flat 5	EX961833	25/08/2017 – 125 years
Flat 6	EX956319	08/07/2017 – 125 years

## Decision

19. The only matter the Respondent raised in its counter notice was that the Premises was not one to which section 72(1) of the Act applied. However, as stated above, the Respondent has not given any explanation as to why it claimed this was the case.
20. The Tribunal has therefore considered section 72(1) and finds that this section does apply to the Premises. By section 72(1)(a) the premises is applicable if it is a self-contained building or part of a building, with or without appurtenant property, contains two or more flats held by qualifying tenants (section 72(1)(b)), and the total number of flats held by tenants is not less than two thirds of the total number of flats contained in the premises (Section 72(1)(c)).
21. The Tribunal is satisfied that the Premises is self-contained in accordance with section 72(1)(a). The statement and further particulars provided by the Applicant contains a photograph of the Premises and it

can be seen that the Premises is an end terrace; however, as determined in *Assethold Ltd v Eveline Road RTM Co Ltd* [2024] EWCA Civ 187, there is nothing to exclude from section 72(3) a self-contained part of a building which itself contains a self-contained part or parts of the building.

22. The freehold title is registered under a single title and the leasehold titles are set out in that title. The Applicant's evidence was that the Premises comprises a converted block of six self-contained flats. They are all structurally connected and share services. The Tribunal is therefore satisfied that the Premises is a self-contained part of a building within the meaning of section 72(1)(a).

23. Further the Tribunal is satisfied that section 72(1)(b) and (c) is met as the Applicant's statement and further particulars set out there are six flats held by qualifying tenants and that the total number of flats held by qualifying tenants is not less than two-thirds of the total number of flats contained in the Premises.

24. The Tribunal therefore determines that on the relevant date the Applicant was entitled to acquire the right to manage the Premises.

25. In accordance with section 90(4) of the Act, within three months after this determination becomes final, the Applicant will acquire the right to manage the Premises.

26. Section 84(7) provides:

- (7) A determination on an application under subsection (3) becomes final –
  - (a) if not appealed against, at the end of the period for bringing an appeal, or



(b) if appealed against, at the time when the appeal (or any further appeal) is disposed of.

### **Application Fee**

27. In light of the findings made, the Tribunal orders the Respondent to reimburse any fees paid by the Applicant to the Tribunal and this order is made under Rule 13(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013.

**Judge Bernadette MacQueen**

**2 December 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).