



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

Case reference : **LON/00AJ/LCP/2024/0011**

Property : **Harborough House, Saltley House and
Brecon House, Taywood Road, Northholt
UB5 6GW**

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

Representative : **n/a**

Respondent : **GUV Harborough & Saltey House RTM
Co Ltd**

Representatives : **Johnstone Solicitors**

Date of Determination : **16 December 2024**

DECISION

Decision of the Tribunal

(1) The Tribunal finds that the reasonable costs payable by the RTM company to Trinity (Estates) Property Management Ltd is £11,198.40.

The Application

1. This is an application made pursuant to section 88(4) of the Commonhold and Leasehold Reform Act 2002 (CLRA 2002) seeking the tribunal's determination as to the costs recoverable by the Applicant in respect of earlier proceedings to determine whether the Respondent should acquire the right to

manage the premises known as Harborough House Saltley House and Brecon House Taywood Road Northold UB5 6GW.

2. The Applicant in these proceedings is the manager of Harborough House and Brecon House . The Applicant is a party to each lease in Harborough House and Brecon House. It does not carry out any management functions in respect of Saltley House, which is owned by Notting Hill Genesis Housing. The Applicant in these proceedings was the Second Respondent in Case ref LON/00AJ/LRM/2023/0013, being this Respondent's application to acquire the right to manage Harborough House, Brecon House and Saltley House. For clarity I will refer to the Applicant in these proceedings as 'Trinity Estates' and the Respondent to these proceedings as 'the RTM company'.
3. On 23 August 2023 the First Tier Tribunal dismissed the RTM company's application to acquire the right to manage the subject premises. The RTM company appealed to the Upper Tribunal. That appeal was determined by 2 May 2024. The appeal was partially successful only insofar as the decision of the FTT was set aside, however the Upper Tribunal then proceeded to consider the RTM's company's application afresh, and dismissed it.
4. On or about 21 June 2024 Trinity Estates applied under s88(4) of CLRA 2002 for a determination of its reasonable costs incurred in opposing the RTM company's application.

Legal Framework

5. Section 88 of the CLRA 2002 provides:
 - (1) *A RTM company is liable for reasonable costs incurred by a person who is*
 - (a) *landlord under a lease of the whole or any premises,*
 - (b) *party to such a lease otherwise than as landlord or tenant*
 - (c)....
 - (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 the costs in respect of such services might reasonably have been 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.

6. In *Albion Residential Ltd v Albion Riverside Residents RTM Company* [2014] the Upper Tribunal confirmed that the costs included in s88(1) include the reasonable costs of an appeal to the Upper Tribunal.

The Determination

7. Pursuant to the Tribunal's directions Trinity Estates have prepared a statement of costs and the RTM company have responded to it. Trinity Estates have served a reply and prepared a bundle for the purposes of this determination. Neither party requested an oral hearing and the application has been determined on the papers.
8. Trinity Estates have prepared a schedule of costs totalling £11,878.40 comprising work done by its in-house solicitor (£4678.40) and counsel's fees for the hearing before the Upper Tribunal (£6,000).
9. In its response the RTM company does not take issue with the hourly rate or the recoverability in principle of any of the costs claimed, but considers that Grade A fee earner should have reasonably taken less time to deal with the proceedings and suggests that 10 hours would have been reasonable. This would result in solicitors costs of £2720. The RTM company takes issue with the following specific items on the schedule;
 - (i) Liaising with counsel in respect of the skeleton argument and considering/serving the same. Trinity Estates have claimed £299.20. The RTM company submits that £272 would be reasonable
 - (ii) Attending the Upper Tribunal hearing. This is claimed at £680. The RTM company submits that this was not reasonable. Trinity Estates has conceded those costs of attendance in its reply.
 - (iii) Attendance on client. Trinity Estates has claimed £680 or 2.5 hours. The RTM company suggests that 1 hour would be sufficient.
 - (iv) Counsel's fee for the appeal. The RTM company submits that counsel's fee for the appeal hearing of £6000 was 'excessive'.
10. The tribunal considers that the costs claimed in respect of the time spent by Trinity Estates in-house solicitor are reasonable give the work involved and makes no adjustment other than in respect of the concession made as regards the costs of attending the appeal hearing. As regards counsel's fee, the RTM company has not disclosed the fee paid to its counsel for the appeal for the

purposes of comparison. The RTM company asks the tribunal to bear in mind the fact the appeal was dismissed for reasons that were not raised by either party and which the RTM company considers were based on an ill-founded assumption of fact, however the only issue which this tribunal can consider is whether or not the right to manage application was unsuccessful and whether or not the costs sought might reasonably have been expected to have been incurred by any self-funding party. Given the complexity of the issues raised in the appeal, it was reasonable for Trinity Estates to instruct experienced counsel. The tribunal considers the fee might reasonably have been expected to have been incurred by any of the parties to the appeal.

Name: Judge N O'Brien

Date: 16 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).