



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

**Case Reference** : **CHI/43UM/LRM/2024/0002-4**

**Properties** : **1-18, 19-36, 37-63 River Court,  
Woking, GU21 5FT**

**Applicants** : **(1) River Court 1  
RTM Company Limited  
(2) River Court 2-3 RTM  
Company Limited  
(3) River Court 4-6 RTM  
Company Limited**

**Respondents** : **(1) Assethold Limited  
(2) UK Luxury Heights Limited**

**Type of Application** : **Section 84 CLRA'02**

**Tribunal Member** : **Judge Dovar**

**Date of Decision** : **13<sup>th</sup> December 2024**

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**DECISION**

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1. These are three applications under s.84 of the Commonhold and Leasehold Reform Act 2002 ('the Act') for a determination that on the relevant date the Applicant RTM Companies were entitled to acquire the Right to Manage the Properties.
2. This matter has been dealt with without a hearing pursuant to Rule 31 of the Tribunal Procedure Rules 2013 and the Tribunal's directions of 12<sup>th</sup> June 2024. Those directions also provided for the three matters to be dealt with together and for the Respondents to provide their statement of case by 5<sup>th</sup> July 2024.
3. The First Applicant seeks a determination in respect of the building containing 1-18 River Court, the Second Applicant in respect of the building containing 19-36, and the Third Applicant in respect of 37-63 River Court.
4. Due to uncertainty as to who the registered freehold proprietor was of the Properties, the Applicants served a notice of claim pursuant to s.79 of the Act on both the First and Second Respondent. At the time of service, the registered proprietor was the Second Respondent, but the Applicants had understood that that position may change and at some point ownership may move to the Second Respondent.
5. The Respondents have not engaged in these proceedings, although they did serve separate counter-notices on 3<sup>rd</sup> May 2023 in respect of each notice of claim.

6. Those notices, each signed by Ronni Gurvits from Eagerstates Limited, as agent, were as follows:
  - a. In respect of the First Applicant's notice of claim, the right to acquire the right to manage was challenged on the basis that by reason of s.78(2) of the Act, on 30<sup>th</sup> March 2023, the First Applicant '*was not so entitled to acquire the right to manage the premises specified in the claim notice because the notice inviting participation did not contain the particulars as prescribed by the regulations in accordance with that section.*'
  - b. In respect of the Second and Third Applicant's notices of claim, the right to acquire the right to manage was challenged on the same basis and in addition that by reason of s.79(3) of the Act the Second and Third Applicants were '*not entitled to acquire the right to manage ... as the claim notice was not given by an RTM Company which complied with Section 79(5)*' of the Act.
7. That is it. Given the Respondents' failure to engage in this application, which was necessitated by the counter-notices, the Tribunal is in the dark as to the particulars that are behind the challenges.

### **The First Challenge: Section 78**

8. Section 78, which forms the basis of the first challenge engages with one of the preliminary steps that needs to be taken before the right to manage can be exercised. That is the invitation to the qualifying residential leaseholders to become a member of the RTM Company that

is proposed to acquire the right to manage. Section 78(2) sets out what the notices must state, being, they must

(a) state that the RTM company intends to acquire the right to manage the premises,

(b) state the names of the members of the RTM company,

(c) invite the recipients of the notice to become members of the company, and

(d) contain such other particulars (if any) as may be required to be contained in notices of invitation to participate by regulations made by the appropriate national authority.

9. As to the latter (d), there are regulations. They are the Right to Manage (Prescribed Particulars and Forms) (England) Regulations 2010/825. Regulation 3 sets out that the notice should also provide

(a) the RTM company's registered number, the address of its registered office and the names of its directors and if applicable, secretary;

(b) the names of the landlord and any third party;

(c) a statement that, subject to the exclusions mentioned in subparagraph (e), if the right to manage is acquired by the RTM company, the company will be responsible for—

(i) the discharge of the landlord's duties under the lease; and

(ii) the exercise of his powers under the lease,

with respect to services, repairs, maintenance, improvements, insurance and management;

(d) a statement that, subject to the exclusion mentioned in subparagraph (e)(ii), if the right to manage is acquired by the RTM company, the company may enforce untransferred tenant covenants;

(e) a statement that, if the right to manage is acquired by the RTM company, the company will not be responsible for the discharge of the landlord's duties or the exercise of his powers under the lease—

(i) with respect to a matter concerning only a part of the premises consisting of a flat or other unit not subject to a lease held by a qualifying tenant; or

(ii) relating to re-entry or forfeiture;

(f) a statement that, if the right to manage is acquired by the RTM company, the company will have functions under the statutory provisions referred to in Schedule 7 to the 2002 Act;

(g) a statement that the RTM company intends or, as the case may be, does not intend, to appoint a managing agent; and—

(i) if it does so intend, a statement—

(aa) of the name and address of the proposed managing agent (if known); and

(bb) if it be the case, that the person is the landlord's managing agent; or

(ii) if it does not so intend, the qualifications or experience (if any) of the existing members of the RTM company in relation to the management of residential property;

(h) a statement that, where the RTM company gives a claim notice, a person who is or has been a member of the company may be liable for costs incurred by the landlord and others in consequence of the notice;

(i) a statement that, if the recipient of the notice (of invitation to participate) does not fully understand its purpose or implications, he is advised to seek professional help; and

(j) the information provided in the notes to the form set out in Schedule 1 to these Regulations.

10. I have been provided with the notices to participate in respect of all three Applicants and they appear to be in conformity with these requirements. Therefore I am satisfied that this challenge fails, and accordingly the First Applicant is entitled to acquire the right to manage 1-18 and was so on the relevant date, which from the counter notices appears to be 30<sup>th</sup> March 2023.

**The Second Challenge: s.79 (3)**

11. The next challenge to the Second and Third Applicants is under section 79 (3). That provides that the claim notice must be given by a RTM

Company which complies with subsection (4) or (5); i.e. either on the date the claim is given, if there are only two qualifying tenants of flats in the building, both must be members, or if there are more qualifying tenants, then not less than one-half must be members. The latter applies in this case.

12. The claim notices were posted on 23<sup>rd</sup> March 2023, and according to the counter notices appear to have been received on 30<sup>th</sup> March 2023. The Second Applicant at that time had 12 members, as reflected in its notice of claim. There appear to be 18 flats in total in that building given the numbers are 19-36. So that challenge falls away. The Third Applicant had 14 members at that time, as reflected in its notice of claim. That was out of 27 flats and so the challenge falls away in respect of this application.
13. Accordingly, the Tribunal determines that the Applicants were on the day they served their notices of claim entitled to acquire the right to manage. The date of this determination is 13<sup>th</sup> December 2024 and according to s.90 of the Act, the Applicants' right to manage will take effect (subject to any appeal) on 13<sup>th</sup> March 2025.

## **Appeals**

A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application by email to [rpsouthern@justice.gov.uk](mailto:rpsouthern@justice.gov.uk) .

The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.

If the person wishing to appeal does not comply with the 28-day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28-day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.

The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking.