



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

<b>Case Reference</b>	<b>:</b>	<b>LON/00BG/LRM2024/0609</b>
<b>Property</b>	<b>:</b>	<b>3 Pelling Street, London, E14 7EN and 80 Farrance Street, London, E14 7ES</b>
<b>Applicant</b>	<b>:</b>	<b>3 Pelling Street (Limehouse) RTM Company Limited</b>
<b>Representative</b>	<b>:</b>	<b>Ms Jade Richmond - Prime Property Management</b>
<b>Respondent</b>	<b>:</b>	<b>Avon Freeholds Limited</b>
<b>Representative</b>	<b>:</b>	<b>Scott Cohen Solicitors Limited</b>
<b>Type of Application</b>	<b>:</b>	<b>Application in relation to the denial of the Right to Manage under s.84(3) of the Commonhold and Leasehold Reform Act 2002</b>
<b>Tribunal Members</b>	<b>:</b>	<b>Tribunal Judge I Mohabir Mr K Ridgeway MRICS</b>
<b>Date of Decision</b>	<b>:</b>	<b>29 April 2025</b>

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**DECISION**

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## ***Introduction***

1. By an application dated 27 October 2024, the Applicant RTM company made an application under section 84(3) of the Commonhold and Leasehold Reform Act 2002 (as amended) (“the Act”) for a determination that it is entitled to acquire the Right to Manage premises known as 3 Pelling Street, London E14 7EN and 80 Farrance Street, London E14 7ES (‘the Property’).
2. By a claim notice dated 09 September 2024 the applicant gave notice that it intended to acquire the Right to Manage the Property on 20 January 2025.
3. By a counter notice dated 10 October 2024, the respondent freeholder disputed the claim for three reasons, namely, that the Applicant had failed to comply variously with sections 78(2), 78(3) and 79(3) and (5) of the Act. These are dealt with in turn below.
4. The only issue to be decided by the Tribunal is whether on the date on which the claim notice was given, the Applicant was entitled to acquire the Right to Manage the Property.

## ***Decision***

5. Pursuant to the Tribunal’s directions, the determination of this application took place on 29 April 2025 and was based solely on the written submissions and documentary evidence filed by the parties.

## **Membership - Section 79(3)(5)**

6. Section 79(3) of the Act provides that the claim notice must be given by a RTM company which complies with subsection (4) or (5). Section 79(5) states that the membership of the RTM company must on the relevant date include a number of qualifying tenants of flats contained on the premises which is not less than one-half of the total number of flats so contained. In this instance, the total number of flats is 14 and, therefore, the Applicant must have 7 members to comply with section 79(3) and (5).
7. It is the Respondent’s case that the Register of Members provided to it on 30 September 2024 was created on 29 September 2024, after the claim notice was served. The Respondent submitted that because no Register of Members had been in existence at the time the claim notice was served, the Applicant had not complied with section 79(5) of the Act. The Respondent also referred to sections 112 and 113 of the Companies Act 2006, which sets out the requirements about how a Register of Members is created and maintained.
8. However, the Tribunal accepted the Applicant’s submission on this point and found that the Register of Members had been created prior to the claim notice being served and was comprised of 9 members at the

relevant time. This is consistent with the register of members found at pages 65-66 in the hearing bundle and the various dates when they became so. The dates all pre-date the date on which the claim notice was served.

9. It follows, that the Tribunal also accepted the Applicant's submission that the version of the Register of Members provided was a PDF document was a copy of the register that had been created solely for the purpose of sending it to the Respondent for perusal.
10. The Tribunal was, therefore, satisfied that the Applicant had complied with section 79(3) and (5) of the Act at the time the claim notice was served.

### **Notice inviting participation - Section 78(2) and section 78(3)**

11. These are related points and can be taken together.
12. Section 78(2)(b) of the Act provides that a notice of invitation to participate must state the names of the members of the RTM company. Section 78(3) provides that a notice of invitation to participate must also comply with such requirements (if any) about the form of notices of invitation to participate as may be prescribed by regulations so made.
13. The Respondent's case is that the notices inviting participation are dated 17 June 2024 and list only Alex Li as a member of the company whereas the register of members provided by the Applicant lists Flats 1, 2, 3, 7, 8, 9, 10, 11 and 12 as being members, with their memberships commencing prior to the 17 June 2024.
14. The Applicant concedes the point and that the notice of invitation does not comply with sections 78(2)(b) and 78(3) of the Act. Nevertheless, it submitted that minor procedural irregularities, such as the omission of names, do not necessarily nullify the validity of the claim to manage under the RTM framework. See: ***Elim Court RTM Co Ltd v Avon Freeholds Ltd*** and ***A1 Properties (Sunderland) Ltd v Tudor Studios RTM Company Ltd***, where it was held that a procedural error that caused a landlord no material prejudice did not invalidate a RTM claim.
15. The Tribunal was satisfied that, other than taking these highly technical points in relation to the notice inviting participation, the Respondent could not establish any real prejudice caused by the omission to correctly state all of the relevant members on the notice. In any event, the saving provision is found in section 78(7), which provides that "A notice of invitation to participate is not invalidated by any inaccuracy in any of the particulars required or by virtue of this section". In the Tribunal's judgement, the inclusion of section 78(7) made clear the intention of Parliament, namely, to give effect to the Act and not to defeat RTM claims on the basis of mere administrative error.

16. Accordingly, for the reasons given above, the Tribunal concluded that the Applicant is entitled to acquire the right to manage the property under section 90(4) of the Act, being 3 months from the date of this decision.

### **Fees**

17. Given that the application has succeeded entirely, the Tribunal orders that the Respondent shall reimburse the Applicant the issue fee in the sum of £110 payable within 28 days of the decision being issued to the parties.

**Name:** Tribunal Judge I Mohabir      **Date:** 29 April 2025

### **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).