



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

**Case reference** : **LON/00AM/LRM/2024/0612**

**Property** : **Various flats at 32 Pitfield Street and  
3 Coronet Street, N1 6HD**

**Applicant** : **1 Coronet Street RTM Company  
Limited**

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

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

**Representative** : **Scott Cohen Solicitors Limited**

**Type of application** : **Right to manage**

**Tribunal member** : **Judge H Carr  
Mr Richard Waterhouse FRICS**

**Date and Venue of  
Hearing** : **19 May 2025 at  
10 Alfred Place, WC1E 7LR**

**Date of decision** : **2<sup>nd</sup> June 2025**

---

**DECISION**

---

© CROWN COPYRIGHT

**Decisions of the Tribunal**

- (1) The Tribunal determines that the building described on the Land Registration documents as 32 Pitfield Street and 3 Coronet Street Hoxton, Title Number EGL387804 is a self-contained building for the purposes of section 72(1) of the Commonhold and Leasehold Reform Act 2002.
- (2) The Tribunal determines that on 3<sup>rd</sup> February 2025, 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 pay the Applicant £330 within 28 days of this Decision, in respect of the reimbursement of the tribunal fees paid by the Applicant.

### **The Application**

1. On 23<sup>rd</sup> September 2024, the Applicant served its Claim Notice pursuant to section 79 of the Act stating that it intended to acquire the RTM the Premises on 3<sup>rd</sup> February 2025.
2. By counter-notice dated 30<sup>th</sup> October 2024, the Respondent freeholder disputed the claim, alleging that the Applicant had failed to establish compliance with section 72(1) of the Act.
3. The Respondent challenges the RTM on the basis that the property is not premises to which the section applies. The Applicant assumes that the challenge is because the Respondent does not consider the premises to be 'self-contained building or part of a building'.
4. On the 9<sup>th</sup> of December 2024, the Applicant issued the application 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 ("the Premises").
5. On 24<sup>th</sup> January 2025, the Tribunal gave Directions. The Procedural Judge identified the issue to be decided, namely whether on the date on which the notice of claim was given, the Applicant was entitled to acquire the RTM of the Premises. The Judge determined that the matter required an oral hearing.
6. The Directions determined that the application together with the enclosures (and any supplementary statement served in accordance with the Directions) be regarded as the Applicant's case.
7. The Directions also required that the Respondent, by 7<sup>th</sup> March 2025, email to the Applicant a statement in reply to the application, any legal submissions and all documents relied upon.
8. The Respondent did not serve a statement of case by 7<sup>th</sup> March 2025.

9. On 10<sup>th</sup> March 2025 the Applicant applied to the Tribunal for an order barring the Respondent from taking any further part in all or part of the proceedings.
10. On 21<sup>st</sup> March 2025 the Tribunal sent to the Respondent a notice of intention to strike out. The notice of intention to strike out required the Respondent to explain its failure to comply with directions by 28<sup>th</sup> March 2025.
11. On 8<sup>th</sup> April 2025 the Tribunal issued an Order debarring it from contesting the proceedings, unless by no later than 18<sup>th</sup> April 2025 the Respondent provides the tribunal with an explanation for its failure to comply with directions.
12. In response and by email dated 22<sup>nd</sup> April 2025, the Respondent's solicitors sought to explain the Respondent's non-compliance with the Tribunal's directions and requested an amendment of directions to allow it seven days to instruct and expert, with an expert's report to be provided 21 days thereafter.
13. The following day, 23<sup>rd</sup> April 2025, the Tribunal's case officer emailed the Respondent's solicitor stating that its request for a variation in directions needed to be made using form Order 1. A copy of that form was attached for completion.
14. No completed Order 1 form was received.
15. On 16<sup>th</sup> May 2025 the Tribunal directed that the hearing would proceed based on the documentation provided by the Applicant in the hearing bundle. This was because the Respondent had failed to (a) serve a Statement of Case, (b) make a formal application for a variation in Directions and (c) provide an expert's report.
16. The Applicant filed a Bundle of Documents in two parts on 29<sup>th</sup> April 2025. The first part extends to 147 pages and is numbered 1 – 146. The second part extends to 56 pages and is numbered 147 - 201. The bundle includes the freehold and leasehold titles (at p.176 -201).

### **The Hearing**

14. Neither party attended the hearing. Mr Bazin, for the Applicant, informed the tribunal that he believed that as the Respondent was barred, the matter would be determined on the papers.
15. The tribunal considered that as the directions were very clear that this was to be an oral hearing, and the communication from Judge Vance dated 16<sup>th</sup> May 2025 gave no indication that the matter had been converted to a paper hearing, and nor was there any application made for such, Mr Bazin's understanding was curious.

16. The tribunal considered the application and determined to proceed with the hearing using its powers under Rule 34 of the tribunal's procedural rules.
17. Rule 34 provides as follows:  
(1) If a party fails to attend a hearing the Tribunal may proceed with the hearing if the Tribunal— (a) is satisfied that the party has been notified of the hearing or that reasonable steps have been taken to notify the party of the hearing; and (b) considers that it is in the interests of justice to proceed with the hearing.
18. The reasons for the determination of the tribunal are that (1) it was satisfied that the parties had been notified of the hearing and (2) that it was in the interests of justice that it proceeded with the hearing.

### **The Law**

17. 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 (emphasis added):
  - (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.

18. Section 72 specified the qualifying rules in respect of the "premises" to which the RTM applies (emphasis added):

“(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 this Chapter) has effect.”

19. Section 75 defines "qualifying tenants" for the purposes of the Act. Section 75(5) provides that no flat has more than one qualifying tenant at any one time. Section 75(7) provides for joint tenancies:

"(7) Where a flat is being let to joint tenants under a long lease, the joint tenants shall (subject to subsection (6)) be regarded as jointly being the qualifying tenant of the flat."

20. Section 78 provides for the Notice inviting Participation (emphasis added):

(1) Before making a claim to acquire the right to manage any premises, a RTM company must give notice to each person who at the time when the notice is given—

(a) is the qualifying tenant of a flat contained in the premises, but

(b) neither is nor has agreed to become a member of the RTM company.

(2) A notice given under this section (referred to in this Chapter as a “notice of invitation to participate”) 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.

.....

(7) A notice of invitation to participate is not invalidated by any inaccuracy in any of the particulars required by or by virtue of this section."

21. Section 79 makes provision for the service of the Notice to Claim to acquire the RTM.

(1) A claim to acquire the right to manage any premises is made by giving notice of the claim (referred to in this Chapter as a “claim notice”); and in this Chapter the “relevant date” in relation to any claim to acquire the right to manage, means the date on which notice of the claim is given.

(2) The claim notice may not be given unless each person required to be given a notice of invitation to participate has been given such a notice at least 14 days before.

.....

(8) A copy of the claim notice must be given to each person who on the relevant date is the qualifying tenant of a flat contained in the premises.

### **The issue raised by the Respondent in its counter-notice**

34. The issue raised by the Respondent turns on whether the Premises in respect of which the RTM is claimed are a "self-contained building". Section 72(2) provides that a building is a self-contained building if it is structurally detached.
35. The Applicant argues that there is no basis on which the Respondent can argue that the claim is invalid and that the legislation has not been appropriately followed.
36. The Applicant says that whilst the premises may appear to be part commercial, it is in fact entirely and solely residential throughout. In 2009 a Change of Use application shows the floor plans of the commercial unit being converted to residential use, which are now Flats 32A and 32B. Change of Use was granted in 2010. Subsequently a Lawful Development Certificate was granted in 2016 in relation to the conversion of what is now Flat 32, to residential use. That certificate is included in the bundle at page 25. The certificate states as its reasons for approval that the information submitted is sufficiently precise and unambiguous to demonstrate, on the balance of probability, that the premises have been used as a self-contained dwelling for a continuous period of not less than four years prior to the submission of this application. The information was submitted by the Respondent.
37. In summary the Applicant argues that its evidence demonstrates residential use of the property covering a period of not less than four years before the date of the application. The evidence includes two statutory declarations from the Respondent.
38. The Applicant points out that it was Eagerstates, who are inextricably entwined with Assehold Limited, who provided the information that the flat has been in residential use since 2011, the Applicant argues that the counter-notice is a sham and frivolous and vexatious.

### **The decision of the Tribunal**

39. The Tribunal determines that the premises are premises to which the RTM applies

### **The reasons for the decision of the Tribunal**

40. The Applicant's evidence demonstrates the Building was residential at the date of Application, and indeed appears to have been thus for several years prior. There is no evidence before the Tribunal that the Building is anything but "self-contained" for the purposes of the Act. The tribunal notes the Counter Notice was very opaque.

### **Tribunal Fees**

38. The Applicant has paid tribunal fees of £330. In the light of our findings, the Tribunal orders the Respondent to refund any fees paid by the Applicant within 28 days of the date of this decision pursuant to Rule 13(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013.

### **Conclusion**

39. The Tribunal determines that the Applicant was on the relevant date entitled to acquire the right to manage the Building pursuant to section 84(5)(a) of the Act.
40. In accordance with section 90(4), within three months after this determination becomes final the Applicant will acquire the right to manage these premises. According to section 84(7):
- “(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.”

**Judge H.Carr**

**2<sup>nd</sup> June 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 Firsttier 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).