



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

Case reference : LON/00BB/LRM/2024/0023

Property : Whitecross Apartments, 269-271 High Street London E15 2TF

Applicant : Whitecross RTM Company Ltd

Representative : The Leasehold Advice Centre

Respondent : Assehold Ltd

Representative : Eagerstates Ltd

Type of Application : Right to Manage

Tribunal : Judge Nicol

Date of Decision : 27th May 2025

DECISION

PAPER DETERMINATION

This has been a paper determination which has not been objected to by the parties. The documents that the Tribunal was referred to are contained in a bundle of 252 pages plus the correspondence on the Tribunal's file.

1) The Tribunal determines that

- a. The Applicant complied with the Right to Manage requirements of the Commonhold and Leasehold Reform Act 2002;**

- b. On 7th September 2024, the Applicant was entitled to acquire the right to manage the premises pursuant to section 84(5)(a) of the Act; and**
 - c. The Applicant will acquire such right three months after this determination becomes final.**
- 2) The Respondent shall pay the Applicant £110 within 28 days of this Decision, in respect of the reimbursement of the Tribunal fees paid by the Applicant.**

Relevant legislation is set out in an Appendix to this decision.

The Tribunal's reasons

1. On 11th July 2024 the Tribunal received an application under section 84(3) of the Commonhold and Leasehold Reform Act 2002 (“the Act”) from The Leasehold Advice Centre (“LAC”), acting for Whitecross RTM Co Ltd (“the Applicant”). The application sought a decision from the Tribunal that on the relevant date the Applicant was entitled to acquire the Right to Manage (“RTM”) premises known as Whitecross Apartments, 269-271 High Street London E15 2TF (“the Property”).
2. The Respondent to the application was named as Assehold Ltd (“the Respondent”), a company represented by Mr Ronni Gurvits of Eagerstates Ltd.
3. A claim notice dated 26th April 2024 was sent to the Respondent, giving notice that the Applicant intended to acquire the RTM on 7th September 2024. The claim notice required a response by 6th June 2024.
4. On 14th June 2024, LAC wrote to Mr Gurvits stating that a counter notice had not been served and that, accordingly, the Applicant intended to acquire the RTM on 7th September 2024. On 17th June 2024, Mr Gurvits replied, stating that a counter notice *had* been served by hand delivery (with photographs of an envelope and a letter box), but he provided no copy of the counter notice until 30th October 2024, after being pressed by the Tribunal.
5. Although the position was unclear for a while, on 26th November 2024 LAC confirmed that “for the purposes of the proceedings, the RTM Co will not dispute a Counter-Notice was given”. On that basis, on 28th November 2024, the Tribunal issued directions superseding directions previously issued on 14th August 2024.
6. By the counter notice dated 6th June 2024, the Respondent disputed the claim on the basis that the claim notice was not given by an RTM Company which complied with Section 79(5) of the Act. In an email of 11th November 2024, Mr Gurvits elaborated that “*The counter notice was served as there were insufficient members who had properly applied to be members or were members of the company*”.

7. Although the Tribunal drew the Respondent's attention to the Supreme Court decision in *A1 Properties (Sunderland) Ltd v Tudor Studios RTM Co Ltd* [2024] UKSC 27; [2024] 3 WLR 601, as recently applied by the Upper Tribunal in *Avon Freeholds Ltd v Cresta Court E RTM Co Ltd* [2024] UKUT 335 (LC); [2025] 1 WLR 1262, both of which cases deal with departures from prescribed procedures which did not invalidate the claim notice, Mr Gurvits indicated that the Respondent still intended to rely on its counter notice to dispute the RTM.
8. By application dated 20th January 2025, the Applicant complained that the Respondent had failed to comply with the direction to provide their case by 17th January 2025 and asked for an order in accordance with paragraph 17 of the directions and rule 9 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 ("the 2013 Rules") that the Respondent be barred from taking any further part in the proceedings.
9. By order dated 31st January 2025 the Tribunal notified the Respondent that it intended to bar them but that they could make submissions by 12th February 2025. On that date, Mr Gurvits emailed to say he had not received the directions of 28th November 2024. They were re-sent on 17th February 2025. By email dated 18th February 2025, LAC pointed out that it was surprising that the Respondent had received the earlier directions, which they also did not comply with, but not those of 28th November 2024. Also by email dated 18th February 2025, Mr Gurvits asked for the directions to be amended so that the Respondent could have more time – the request was put formally in form Order 1 on 20th January 2025.
10. On 6th March 2025, Judge Martyniński amended the directions, extending the time for the Respondent's case to 14th March 2025, as they had requested, but also ordering that, "In default, the Respondent will be automatically debarred from submitting any evidence."
11. By email dated 7th March 2025 (copied to the Respondent), LAC strongly objected to the amended directions, asserting that a decision was urgent due to issues with the cladding to the Property.
12. In an email dated 14th March 2025 and timed at 5:00:20pm, Mr Gurvits purported to provide "correspondence for your reference" which consisted of a single pdf file entitled "statement of case ah183rtm.pdf". Despite the Tribunal's guidance in this and every other case the Respondent is involved with at the Tribunal, the email was not copied to the Applicant. The Applicant did not receive this document at any time from the Respondent.
13. The Respondent's document consisted of a single page containing 3 short numbered paragraphs of submissions, unsupported by any law. While this could generously be described as a "statement in reply to the application", as required by the first bullet point in paragraph 3 of the directions, it did not provide any of the other material specified in paragraph 3, namely any legal submissions, any witness statements and

all documents relied on. There weren't even any details, let alone any documentary evidence, of the forfeiture proceedings referred to in paragraph 3 of the Respondent's statement.

14. The Tribunal has no choice but to conclude that the Respondent failed to comply with the directions and, therefore, the Respondent was automatically barred in accordance with Judge Martynski's order of 6th March 2025.
15. The Property is a purpose-built block of 11 flats sold on long leases. The freehold is registered to the Respondent whose managing agents are Eagerstates Ltd.
16. The lessees of 6 of the 11 flats formed the Applicant company with the purpose of acquiring the RTM. The requisite notices of intention were served on the lessees of the remaining 5 flats. The Notice of Claim and Counter-Notice were then served as set out above.
17. The Respondent has produced nothing sufficient to bring into question the Applicant's entitlement to acquire the RTM, irrespective of having been barred. Therefore, the Tribunal confirms that entitlement.
18. In accordance with section 90(4) of the Act, the acquisition date is the date three months after this determination becomes final.

Name: Judge Nicol

Date: 27th May 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).

Appendix of relevant legislation

Commonhold and Leasehold Reform Act 2002

Section 72 Premises to which Chapter 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 this Chapter) has effect.

Section 73 RTM companies

- (1) This section specifies what is a RTM company.
- (2) A company is a RTM company in relation to premises if—
 - (a) it is a private company limited by guarantee, and
 - (b) its articles of association state that its object, or one of its objects, is the acquisition and exercise of the right to manage the premises.
- (3) But a company is not a RTM company if it is a commonhold association (within the meaning of Part 1).
- (4) And a company is not a RTM company in relation to premises if another company is already a RTM company in relation to the premises or to any premises containing or contained in the premises.
- (5) If the freehold of any premises is conveyed or transferred to a company which is a RTM company in relation to the premises, or any premises containing or contained in the premises, it ceases to be a RTM company when the conveyance or transfer is executed.

Section 78 Notice inviting participation

- (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.
- (3) 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.
- (4) A notice of invitation to participate must either—
 - (a) be accompanied by a copy of the memorandum of association and articles of association of the RTM company, or
 - (b) include a statement about inspection and copying of the memorandum of association and articles of association of the RTM company.
- (5) A statement under subsection (4)(b) must—
 - (a) specify a place (in England or Wales) at which the memorandum of association and articles of association may be inspected,
 - (b) specify as the times at which they may be inspected periods of at least two hours on each of at least three days (including a Saturday or Sunday or both) within the seven days beginning with the day following that on which the notice is given,
 - (c) specify a place (in England or Wales) at which, at any time within those seven days, a copy of the memorandum of association and articles of association may be ordered, and
 - (d) specify a fee for the provision of an ordered copy, not exceeding the reasonable cost of providing it.
- (6) Where a notice given to a person includes a statement under subsection (4)(b), the notice is to be treated as not having been given to him if he is not allowed to undertake an inspection, or is not provided with a copy, in accordance with the statement.
- (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.

Section 79 Notice of claim to acquire right

- (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.
- (3) The claim notice must be given by a RTM company which complies with subsection (4) or (5).
- (4) If on the relevant date there are only two qualifying tenants of flats contained in the premises, both must be members of the RTM company.
- (5) In any other case, the membership of the RTM company must on the relevant date include a number of qualifying tenants of flats contained in the premises which is not less than one-half of the total number of flats so contained.
- (6) The claim notice must be given to each person who on the relevant date is—
 - (a) landlord under a lease of the whole or any part of the premises,
 - (b) party to such a lease otherwise than as landlord or tenant, or
 - (c) a manager appointed under Part 2 of the Landlord and Tenant Act 1987 (c. 31) (referred to in this Part as "the 1987 Act") to act in relation to the premises, or any premises containing or contained in the premises.
- (7) Subsection (6) does not require the claim notice to be given to a person who cannot be found or whose identity cannot be ascertained; but if this subsection means that the claim notice is not required to be given to anyone at all, section 85 applies.
- (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.
- (9) Where a manager has been appointed under Part 2 of the 1987 Act to act in relation to the premises, or any premises containing or contained in the premises, a copy of the claim notice must also be given to the leasehold valuation tribunal or court by which he was appointed.

Section 84 Counter-notices

- (1) A person who is given a claim notice by a RTM company under section 79(6) may give a notice (referred to in this Chapter as a "counter-notice") to the company no later than the date specified in the claim notice under section 80(6).
- (2) A counter-notice is a notice containing a statement either—
 - (a) admitting that the RTM company was on the relevant date entitled to acquire the right to manage the premises specified in the claim notice, or
 - (b) alleging that, by reason of a specified provision of this Chapter, the RTM company was on that date not so entitled,and containing such other particulars (if any) as may be required to be contained in counter-notices, and complying with such requirements (if any) about the form of counter-notices, as may be prescribed by regulations made by the appropriate national authority.
- (3) Where the RTM company has been given one or more counter-notices containing a statement such as is mentioned in subsection (2)(b), the company may apply to the appropriate tribunal for a determination that it was on the relevant date entitled to acquire the right to manage the premises.

- (4) An application under subsection (3) must be made not later than the end of the period of two months beginning with the day on which the counter-notice (or, where more than one, the last of the counter-notices) was given.
- (5) Where the RTM company has been given one or more counter-notices containing a statement such as is mentioned in subsection (2)(b), the RTM company does not acquire the right to manage the premises unless—
 - (a) on an application under subsection (3) it is finally determined that the company was on the relevant date entitled to acquire the right to manage the premises, or
 - (b) the person by whom the counter-notice was given agrees, or the persons by whom the counter-notices were given agree, in writing that the company was so entitled
- (6) If on an application under subsection (3) it is finally determined that the company was not on the relevant date entitled to acquire the right to manage the premises, the claim notice ceases to have effect.
- (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.
- (8) An appeal is disposed of—
 - (a) if it is determined and the period for bringing any further appeal has ended, or
 - (b) if it is abandoned or otherwise ceases to have effect.

Section 90 The acquisition date

- (1) This section makes provision about the date which is the acquisition date where a RTM company acquires the right to manage any premises.
- (2) Where there is no dispute about entitlement, the acquisition date is the date specified in the claim notice under section 80(7).
- (3) For the purposes of this Chapter there is no dispute about entitlement if—
 - (a) no counter-notice is given under section 84, or
 - (b) the counter-notice given under that section, or (where more than one is so given) each of them, contains a statement such as is mentioned in subsection (2)(a) of that section.
- (4) Where the right to manage the premises is acquired by the company by virtue of a determination under section 84(5)(a), the acquisition date is the date three months after the determination becomes final.
- (5) Where the right to manage the premises is acquired by the company by virtue of subsection (5)(b) of section 84, the acquisition date is the date three months after the day on which the person (or the last person) by whom a counter-notice containing a statement such as is mentioned in subsection (2)(b) of that section was given agrees in writing that the company was on the relevant date entitled to acquire the right to manage the premises.
- (6) Where an order is made under section 85, the acquisition date is (subject to any appeal) the date specified in the order.