



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

Case Reference	: HAV/21UD/LRM/2024/0503
Property	: 25 -29 Ashburnham Road, Hastings, East Sussex. TN35 5JN.
Applicant	: Kilncroft Lodge RTM Company Limited
Representative	: The Leasehold Advice Centre (Philip Mark Bazin)
Respondent	: Assehold Limited
Type of Application	: Determination that on the relevant date the Applicant RTM Company was entitled to acquire the Right to Manage Section 84(3) the Commonhold and Leasehold Reform Act 2002 (CLARA)
Tribunal Members	: Judge C A Rai
Date type and venue of Hearing	: 14 July 2025 Decision on the papers without a hearing. Rule 31 The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 (the Rules).
Date of Decision	: 18 July 2025

DECISION

1. The Tribunal determines that on the relevant date, the Applicant is entitled to the Right to Manage 25 -29 Ashburnham Road, Hastings, East Sussex. TN35 5JN (the Property).
2. The reasons for the Tribunal's decision are set out below.

Background

3. The Property is converted block of twelve self-contained flats. The Applicant has described the Property as being recently built with the flats all having been sold on long leases. The freehold of the Property is owned by the Respondent.
4. The initial members of the Applicant were Carol Jane Lodge, Lee Walsingham and Judith Winifred Walsingham, Apana Business Psychology Limited, Sarah Elizabeth Taylor, S Pang Property Limited, Daisy May Boorman and George William Boorman and Johanna Claire Malham Carter (flats 1, 2, 4, 5, 6, 8, 10 and 11). The members are the lessees of eight of the twelve flats (Lee Walsingham and Judith Winifred Walsingham are registered proprietors of both flats 2 & 4).
5. Notices of Invitation to participate were served on the qualifying tenants of the other four flats (flats 3, 7, 9 and 12). Five notices were served because two notices were served in relation to flat 9. This was not explained by the Applicant but appear to reflect a change of ownership and uncertainty as to the current identity of the legal owner. Subsequently, Claire Louise Dean (Flat 7) accepted the invitation to participate and became a member of the Applicant.
6. The Notice of Claim to acquire the right to manage the Property was served on the Respondent by first class post to three postal addresses and by email to the electronic addresses of two advisors (Eagerstates and Scot Cohen) both of which had previously represented the Respondent [19], on 20 June 2024.
7. Scott Cohen solicitors, one of the advisors to whom the notice by was emailed replied to the Applicant on 8 July 2024 requesting additional documentation.
8. The Applicant's representative sent that documentation to Scott Cohen on 16 July 2024 by email.
9. The Applicant has told the Tribunal that it has not received a counter-notice. It emailed Ronni Gurvits at Eagerstates Limited confirming that, in the absence of any receipt of a counter-notice, the Applicant would acquire the right to manage the Property on 1 November 2024.
10. Mr Gurvits replied on 15 August 2024 (by email) stating that a counter-notice to the Applicant was served by first class post on 30 July 2024.
11. Given the absence of any proof at that time, of the existence of the receipt of a counter-notice, the Applicant's representative responded (by email) requesting the date of the "alleged" service of the counter-notice and an electronic copy.

12. Mr Gurvits responded on 28 August 2024, stating that a counter-notice had been served and that “your client should have a copy. He said that it was posted first class and was in the same format as the claim notice. Your client should have received this, if they (sic) have not, we will send you a copy of the notice served”.
13. No copy of a counter-notice has been provided to the Applicant or its representative by the Respondent, or on its behalf, by an advisor.
14. The Applicant has stated that it has been notified of six other similar claims in which counter-notices, allegedly sent by or on behalf of Assethold Limited, have not been received. Mr Gurvits is involved in each of those claims.
15. The Applicant’s evidence is that, notwithstanding the claim made by Mr Gurvits of Eagerstates Limited that a counter-notice has been served by or on behalf of the Respondent, neither it nor its representative has seen or received a counter-notice.
16. The Applicant therefore seeks a determination from the Tribunal that it is entitled to the right to manage the Property. It does so because although it has stated that it has not received a counter-notice and its claim therefore succeeds, the Respondent has stated, repeatedly, that a counter-notice has been served.
17. It has also applied for an order that the Respondent reimburse its tribunal fees because it stated that the Respondent has acted “frivolously and vexatiously in serving a Counter Notice disputing the claim and then failed to enter into any productive correspondence or in respect thereto or even provide a copy” leaving the Applicant with no alternative but to incur the additional cost of making an application to the Tribunal [21]. In its written application the Applicant also seeks cost limitation orders under section 20C of the Landlord and Tenant Act 1985 and paragraph 5 of schedule 11 to the Commonhold and Leasehold Reform Act 2002.
18. The Applicant has provided a bundle of documents comprising 204 pages. References to numbers in square brackets in this decision are to numbered pages in that bundle.
19. The Tribunal issued directions on 5 March 2025. It identified that the first issue for the Tribunal to determine was whether or not the “alleged” counter-notice had been served.
20. Depending upon the Tribunal’s determination of that issue, the Tribunal could, if necessary, examine the claim based on the merit of the respective parties submissions. In the absence of any request for a preliminary determination all issues would be determined together.

21. Parties were directed exchange to exchange documentation. It was directed that the Tribunal would only recognise that the Respondent was represented as and when an authority was provided by it. (Paragraph 12 of Judge J Dobson’s Direction dated 5 March 2025 [3]. He directed that unless either party objected the application would be determined on the papers without an oral hearing in accordance with Rule 31 and he also gave directions for the exchange of documents and statements and the provision of a determination bundle by the Applicant.
22. No authority with regard to representation has been provided by the Respondent to the Tribunal. No objections were received from either party to a determination being made without an oral hearing. The tribunal reviewed the determination bundle on 2 July 2025 and concluded that the application remained suitable for determination on the papers.

The Law

23. The Notice of claim by the Applicant to acquire the right to manage the Property was made under **section 79** of CLARA. Before making a claim under section 79 a RTM company must give notice to each person who is a qualifying tenant of a flat contained in the premises and is neither a member of the RTM or agreed to become a member (**section 78**).
24. **Section 80** sets out the requirements with which the claim notice must comply.
25. **Section 84** provides that a person who is given a claim notice by an RTM company may give a counter-notice (as referred to in Chapter 1 of CLARA, no later than the date specified in the claim notice.
26. **Section 90** deals with the acquisition date and states, 90(2), that where there is no dispute about entitlement, the acquisition date is the date specified in the claim notice (which is 1 November 2024). Subsection 90(3) states that “For the purposes of this Chapter there is no dispute about entitlement if—(a) no counter notice is given under section 84”.
27. Extracts from sections of the Act are reproduced in the Schedule to this decision.

The evidence

28. On 2 July 2025 Judge H Lumby directed that he was satisfied that the issues can be determined without a hearing as the Respondent has not provided any evidence or statements in opposition to this case.
29. With its Application to the Tribunal the Applicant provided a statement and further particulars (of its claim).
30. The notice of claim was sent to the Respondent on 20 June 2024. A copy of that notice is in the bundle [87].
31. Thereafter Scott Cohen emailed the Applicant on 8 July 2024 stating it was instructed by the Respondent and asked for additional information

[115]. A response from the Respondent was sent by email on 16 July 2024 enclosing that information [116].

32. On 7 August 2024, the Applicant emailed Mr Gurvits noting that no counter-notice had been served and stating that the Applicant would acquire the right to manage the Property on 1 November 2024.
33. Following that email Mr Gurvits claimed that a counter-notice had been served (by first class post) on 30 July 2024. No copy of that notice has ever been disclosed to the Applicant and/or the Tribunal or provided by Mr Gurvits or the Respondent or its other advisor, Scott Cohen.
34. The Applicant asked Mr Gurvits for a copy of the counter-notice. He has not provided a copy of it.
35. The Applicant initially described the Respondent's claim to have sent a counter-notice as a ploy. Mr Gurvits rebutted this but has nevertheless omitted to provide any evidence to demonstrate that the counter-notice was sent to the Applicant.
36. The Applicant has asked the Tribunal to decide in its favour and also to make an order for the reimbursement of the fees paid to the Tribunal.

Reasons for the decision

37. The Tribunal accepts the evidence provided to it by the Applicant. It is satisfied that the notice of claim was served on the Respondent. It has not seen any evidence that the Respondent produced a counter-notice or has given any reasons to dispute the Applicant's claim.
38. The Tribunal finds that the Applicant has served notice on the Respondent of its right to manage in compliance with the section 79 of CLARA.
39. As the Respondent has not served a counter-notice there is no dispute that the Applicant is entitled to exercise the right to manage the Property on the relevant date. The Tribunal finds that on the relevant date the Applicant is entitled to exercise the right to manage the Property.
40. This determination will become final in accordance with the provisions of sub-section 84(7) and (8) of CLARA.
41. Given that the only consequence of the involvement of the Respondent and its advisors has been to disrupt and delay the Applicant's claim the Tribunal makes an order pursuant to Rule 13(2) that the Respondent must reimburse the Applicant the Fee of £110 paid to HMCTS (Rule 13(2)).

Generally

42. The Applicant has provided no written representations to the Tribunal in support of its application for the Tribunal to make orders under section 20C of the Landlord and Tenant Act 1985 and paragraph 5A of Schedule

11 to CLARA. If it wishes to pursue that element of its application, it may submit brief representations by email to the Tribunal and the Respondent within 14 days of the date of receipt of this decision. The Respondent may respond within 14 days of the receipt of those representations. Paragraph 12 of the Directions dated 5 March 2024 remains applicable.

43. The Tribunal will provide a written decision based on any valid representations received as soon as practical after the expiry of the time limit referred to in the preceding paragraph.

Judge C A Rai

Schedule

Extracts from Part 1 of CLARA

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.

80 Contents of claim notice

- (1) The claim notice must comply with the following requirements.
- (2) It must specify the premises and contain a statement of the grounds on which it is claimed that they are premises to which this Chapter applies.
- (3) It must state the full name of each person who is both—
- (a) the qualifying tenant of a flat contained in the premises, and
 - (b) a member of the RTM company,
- and the address of his flat.
- (4) And it must contain, in relation to each such person, such particulars of his lease as are sufficient to identify it, including—
- (a) the date on which it was entered into,
 - (b) the term for which it was granted, and
 - (c) the date of the commencement of the term.
- (5) It must state the name and registered office of the RTM company.
- (6) It must specify a date, not earlier than one month after the relevant date, by which each person who was given the notice under [section 79\(6\)](#) may respond to it by giving a counter-notice under [section 84](#).
- (7) It must specify a date, at least three months after that specified under subsection (6), on which the RTM company intends to acquire the right to manage the premises.
- (8) It must also contain such other particulars (if any) as may be required to be contained in claim notices by regulations made by the appropriate national authority.
- (9) And it must comply with such requirements (if any) about the form of claim notices as may be prescribed by regulations so made.

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]¹ 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.

Appeals

1. A person wishing to appeal this decision to the Upper Chamber must seek permission to do so by making written application to the First-tier Tribunal at the Regional office which has been dealing with the case.
2. 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. Where possible you should send your further application for permission to appeal by email to **rpsouthern@justice.gov.uk** as this will enable the First-tier Tribunal to deal with it more efficiently.
3. 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.
4. 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.