



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

Case Reference : **MAN/ooBN/LRM/2024/0001**

Premises : **SKYLINE CENTRAL ONE, 50 GOULDEN STREET, MANCHESTER, M4 5EH**

Applicant : **SKYLINE CENTRAL ONE RTM CO. LTD.**

Representative : **MR WINSTON JACOB, COUNSEL**

Respondent : **ADRIATIC LAND 3 LIMITED**

Representative : **MS SOPHIE GIBSON, COUNSEL**

Type of application : **Determination pursuant to Section 84(3) Commonhold and Leasehold Reform Act 2002 - Right to Manage**

Tribunal members : **Judge P. Forster
Judge S. Westby
Mr J Fraser FRICS**

DECISION

Decision

Skyline Central One RTM Co. Ltd. acquired the Right to Manage Skyline Central One, 50 Goulden Street, Manchester, M4 5EH, with effect from 1 October 2025, in accordance with s.90(4) of the Commonhold and Leasehold Reform Act 2002.

Background

1. This is an application under s.84(3) of the Commonhold and Leasehold Reform Act 2002 ('the Act') for the Tribunal to determine whether Skyline Central One RTM Co. Ltd. ('the Applicant') was entitled to acquire the right to manage Skyline Central One, 50 Goulden Street, Manchester, M4 5EH ('the Premises'). The application is opposed by Adriatic Land 3 Ltd. ('the Respondent').

Inspection and hearing

2. The Tribunal inspected the Premises on 28 May 2025 and the hearing took place immediately following the inspection. The Applicant was represented by Mr Winston Jacob, Counsel, and the Respondent by Ms Sophie Gibson, Counsel.

Application to stay the proceedings

3. The Respondent applies for the proceedings to be stayed by the Tribunal using its case management powers pursuant to rule 6(3)(m) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013.
4. A stay is sought pending the Court of Appeal's decision in The Courtyard RTM Co. LTD v Rockwell (FC103) Ltd. [2025] UKUT 39 (LC). The Respondent argues that the outcome could significantly impact the test which may well apply to the Premises in the present case as both concern an underground carpark. The appeal challenges the Upper Tribunal's interpretation of the test for 'vertical division' in s.72(3)(a) of the Act and 'independent redevelopment' test in s.72(3)(b).
5. The Appellant submits that a stay should be refused because the appeal in The Courtyard cannot affect the outcome in these proceedings because it concerns a different statutory test. The Courtyard is concerned with the interpretation of some of the requirements of a 'self-contained part of the building' in s.72(3) whereas in the present case the test is one of 'self-containment' within s.72(2).
6. For the reasons set out below, the Tribunal finds that the present case stands to be determined under the purely physical test in s.72(2) alone and not under either limb of the 'self-contained part of the building' test in s.72(3). The facts in the present case are distinguishable from those in The Courtyard. The Tribunal refuses the application to stay the proceedings because the outcome of the appeal will not affect this case.

Ownership of the Premises

7. The Applicant was incorporated on 13 August 2023 in order to acquire the right to manage the Premises.
8. The Respondent is the freehold owner of the Premises registered at HM Land Registry under title number GM250899. From its interest, the Respondent has granted 122 long residential leases registered in individual units. The relevant terms of the leases are identical in all material respects.

The Respondent's case

9. It makes sense to set out the Respondent's case first.
10. The Respondent submits that the Premises is neither a self-contained building nor a self-contained part of a building such that the Applicant is not entitled to acquire the right to manage.
11. The Respondent contends that there are four key issues:
 - a. The Premises is not structurally detached such that it cannot be considered to be a self-contained building; and
 - b. it cannot be a self-contained part of the building, as there is not a vertical division; and
 - c. the structure cannot be developed independently; and
 - d. relevant services are not provided independently and cannot be provided separately.
12. It is argued that the Premises is incapable of vertical division in the following aspects:
 - i the car park extends beyond the footprint of the Premises,
 - ii the balconies located on the perimeter of the Premises overhang onto adjoining land,
 - iii there is a spherical structure located between the Premises and Skyline 2 which overhangs the adjoining land,
 - iv on the front face of the Premises the building recesses.

13. The Respondent relies on a deed of Mutual Easement dated 22 September 2006 between Wheatley Properties Ltd. and West Properties (UK Ltd.). Wheatley Properties Ltd. is the predecessor in title of the current freehold owner of Skyline 2 and West Properties (UK Ltd.) is the Respondent's predecessor in title. Under the Deed the occupiers of Skyline 2 have the right to pass over the Premises to use 80 of the parking spaces in the car park in the basement, nothing is to be done to interfere with these rights in exchange for which Wheatley Properties agree to contribute a fair and reasonable amount of the costs incurred in the performance of the obligation.
14. The terms of the Deed were varied by a further deed of covenant dated 22 August 2013 to allow the occupiers of Skyline 2 to use the facilities in the Premises, namely, the gym, roof terrace, zen room, concierge, garden and leisure facilities. The occupiers of the Premises were granted the right to use the swimming pool, sauna, spa, concierge, post room, garden, staff kitchen and bathroom located in Skyline 2.
15. The Respondent entered into a deed of covenant dated 1 January 2015 binding it to the terms of the deeds granted by its predecessors in title.
16. The Respondent relies on FirstPort Property Services Ltd. v Settlers Court RTM Company Ltd. and others [2022] UKSC 1 as authority for the proposition that an RTM company is unable to acquire the right to manage of appurtenant property for which the occupiers do not have exclusive use over. Thus, it is submitted, the Applicant would be unable to acquire the right to manage the Premises.
17. It is said that the car park cannot be acquired by the Applicant and it would remain in the control of the Respondent as would the gym, roof terrace, zen room, concierge and garden.

The Applicant's case

18. The Applicant says that its case is a simple one; that the Premises is a self-contained building because it is structurally detached therefore satisfying s.72(2). It is said there is no evidence that the Premises is structurally attached to Skyline 2. It is said that there is no basis for the Respondent's submission. The Respondent's arguments address only the requirements for a self-contained part of a building and are not relevant to the test for a self-contained building.
19. It is submitted that the Applicant's argument based on the Settlers Court case is misplaced because the Supreme Court was not concerned with the definition of a self-contained building or part of a building. Instead, it decided the extent of appurtenant property outside of the self-contained building/part of a building over which the RTM company could acquire the right to manage. The decision has no effect on the determination of whether a building is structurally detached.

The Law

20. The relevant parts of the Act are set out in the Annex.

The decision

Preliminary point

21. The Applicant contends that the Respondent should not be permitted to argue that the Premises does not satisfy s. 72 because this was not a challenge raised in its counter-notice. The Applicant recognises that this argument cannot realistically succeed before the First-tier Tribunal because it is bound by the contrary decisions of the Upper Tribunal in Fairhold (Yorkshire) Limited v Trinity Wharf (SE16) RTM Co Ltd [2013] UKUT 0502 (LC); [2014] L. & T.R. 6 and Albion Residential Ltd v Albion Riverside Residents RTM Company Ltd [2014] UKUT 6 (LC). Nevertheless, the Applicant's position is that the reasoning of the Supreme Court in A1 Properties (Sunderland) Ltd v Tudor Studios RTM Co Ltd [2024] UKSC 27; [2024] 3 W.L.R. 601 casts doubt on the reasoning in these decisions. The Applicant therefore reserves its position to argue this point on any appeal of this Tribunal's decision.

The Premises

22. Applicant served a Notice of Claim dated 4 October 2023 purporting to give notice of a claim to acquire the right to manage the Premises pursuant to s.79 of the Act. In response, on 10 November 2023, the Respondent served a counternotice denying the Applicant was entitled to acquire the right to manage. Following this, the Applicant applied to the Tribunal for a determination that it was entitled to acquire the right to manage the Premises in accordance with s.83(3) of the Act.
23. The Premises is subject to 122 long leases of the flats in the building, each for a term of 125 years. The long leases were granted between 2006 and 2014. The Respondent was registered as the proprietor of the freehold title on 14 January 2015.
24. The Premises is a building consisting of two basement levels and ten floors above the ground. The basement levels include carparking spaces. The building contains 122 flats. Skyline 2, another block of flats, was the second phase of the same development as the Premises. The residents of the blocks share the use of some facilities including the car park under the Premises.
25. The Respondent contends that the Premises is neither a self-contained building nor a self-contained part of a building such that the Applicant is not entitled to acquire the right to manage. The Applicant's position is that the Premises is structurally detached and therefore a self-contained building and there is no question of it being a self-contained part of a building.

26. S.72 of the Act defines the premises over which the right to manage may be claimed. By s.72(1)(a), the premises must ‘consist of a self-contained building or part of a building, with or without appurtenant property’.
27. S.72(2) provides that ‘a building is a self-contained building if it is structurally detached’.
28. S.72(3) provides that ‘a part of a building is a self-contained part of a building if it (a) 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’.
29. Subsection 72(4) 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’.
30. The Applicant submits that whether premises satisfy the definition of a ‘self-contained building or part of building’ is purely a physical test. The definition is concerned only with the structure of the building envelope, its internal structure, and the separability of services. The authority for this is Eveline Road RTM Co Ltd v Assethold Ltd [2024] EWCA Civ 187; [2024] Ch 204, para. 36.
31. The Respondent’s witness, Mr David Baker, is a qualified building surveyor who undertook a survey of the underground carpark beneath the Premises. In his witness statement dated 30 April 2025, he sets out his findings that lead him to the conclusion that the underground carpark extends beyond the footprint of the Premises. Mr Baker has produced a plan showing this to demonstrate the point. The Applicant accepts Mr Baker’s evidence.
32. A point of appeal in The Courtyard is the presence of an underground carpark. The Respondent submits that the Premises in the present case mirrors the facts in The Courtyard and submits that ‘the fact the carpark extends beyond the footprint of the building disrupts any vertical division...’.
33. The carpark beneath the Premises does not extend beneath Skyline 2. On the evidence, the carpark does not extend beyond the curtilage of the Premises. It offers no support to any other structures.
34. In The Courtyard the physical layout of the site is very different to the one in the present case. The underground carpark supports five separate structures built above it. In The Courtyard the RTM company has to persuade the Court to create a vertical division to establish its case. In the present case no vertical division either notional or physical is required.

35. Reference is made to balconies on the Premises that overhang some adjoining land likely to be owned by the Council and to an art installation suspended between the Premises and Skyline 2 and to recesses on the front face of the Premises but none of these points was pursued. None of these features detracts from the fact that the Premises is structurally detached.
36. It is evident to the Tribunal based on the evidence and on its own inspection that the Premises is structurally detached and as such it is a self-contained building that it satisfies s.72(2).
37. The Tribunal invited Ms Gibson to accept that the Premises is physically detached. She conceded that the physical is important but argued that the self-containment criteria cannot be ignored. The Respondent's case does not suggest that the Premises is anything but physically detached.
38. The Tribunal agrees with Mr Jacob's submission to stop at this point and go no further because the Applicant has established its right to acquire the Premises based on s.72(2). As a matter of construction, there is no need to consider the limbs of s.72(3) and apply the 'self-contained part of a building' test.

Costs

39. The Applicant invites the Tribunal to award its costs relating to the vacated hearing on 7 May 2025 on the basis that the Respondent acted unreasonably in conducting the proceedings. Rule 13(1)(b)(iii) applies. It is submitted that the application for a stay and permission to rely on Mr Baker's witness statement could and should have been made months earlier and could have avoided the hearing on 7 May 2025 being aborted.
40. The relevant chronology is that the application was made on 9 January 2024; directions were issued on 27 September 2024; the Upper Tribunal's decision in The Courtyard was issued on 7 February 2025; permission to appeal was given on 21 February 2025, notice of hearing in the present case was issued on 24 February 2025; Mr Baker made his witness statement on 30 March 2025 and the Respondent's application was made the same day.
41. The suggestion that the application should have been made months ago is a strong submission. Permission to appeal in The Courtyard was only given in late February. Factor in the time to consider the Upper Tribunal's decision and apply it to the present case, obtain instructions from the Respondent and commission a report from Mr Baker, puts matters in proper context.
42. The application was made late on Monday 30 April 2025. The Tribunal received a response from the Applicant the following day, Tuesday 1 May 2025 agreeing to the application subject to being given the opportunity to obtain its own evidence. This

would require a postponement of the hearing. On Friday 2 May 2025, the Tribunal granted the application and postponed the hearing. This was immediately before the bank holiday on Monday 5 May 2025. On Tuesday 6 May 2025, the Respondent changed its position, decided it did not want to obtain its own evidence and asked for the hearing to go ahead on Wednesday 7 May 2025. By this time, it was not practical to reinstate the hearing.

43. Considering all the facts, the Tribunal finds that the Applicant did not act unreasonably and does not make a costs order in favour of the Respondent.

Extending the time for appeal

44. In the event of the application for a stay being refused and the application being allowed, the Respondent asks the Tribunal to extend the time for making any appeal until the Court of Appeal gives its decision in The Courtyard case. Having found that the facts of the two cases and the legal test are different and rejected the arguments based on The Courtyard, the Tribunal considers it would be inconsistent to extend time and refuses the Respondent's request.

Conclusion

45. In consequence of the Tribunal's findings, it therefore determines that the Applicant has fulfilled the necessary requirements of the 2002 Act in order to succeed in its application that it has the right to manage the Property.

Judge P Forster

30 June 2025

ANNEX

The 2002 Act is the relevant statute in respect of this application.

Section 71 provides:

- (1) This Chapter makes provision for the acquisition and exercise of rights in relation to the management of premises to which this Chapter applies by a company which, in accordance with this Chapter, may acquire and exercise those rights (referred to in this Chapter as a RTM Company).
- (2) The rights are to be acquired and exercised subject to and in accordance with this Chapter and are referred to in this Chapter as the right to manage.

Section 72 provides:

- (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.

RIGHT OF APPEAL

A person wishing to appeal against this decision to the Upper Tribunal (Lands 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.

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, that 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.