



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

Case Reference	: HAV/45UG/LRM/2025/0605
Property	: White Lion Close, East Grinstead, West Sussex. RH19 1UD
Applicant	: White Lion Close RTM Company Limited
Representative	: RTMF Services Limited
Respondent	: Avon Ground Rents Limited
Representative	: Scott Cohen Solicitors
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
Type of Determination	: Decision on the papers without a hearing. Rule 31 The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013
Date of Decision	: 26 September 2025

DECISION

1. The Tribunal determines that the Applicant is not entitled to the right to manage the Property.
2. The reasons for the Tribunal's decision are set out below.

Background

3. The Applicant gave a claim notice to the Respondent claiming the right to manage White Lion Close, East Grinstead RH19 IUD (the Property) on 22 January 2025. The notice was signed by Nick Bignell of RTMF Services Limited (RTMF), the Applicant's representative.
4. The Respondent instructed Scott Cohen as its representative and that firm emailed RTMF on 23 January 2025 requesting further information including (amongst other things) up to date Land Registry office copies for each of the qualifying tenants and copies of the notices of invitation to participate together with proof of delivery.
5. The information requested was sent to Scott Cohen by RTMF on 24 January 2025.
6. On 26 January 2025 Scott Cohen sent the Applicant a Counter Notice in which it alleged that the Applicant was not entitled to the right to manage the Property. The notice referred to sections 78(1) and 79(2) of CLARA.
7. The Applicant applied to this Tribunal to determine whether it is entitled the right to manage the Property on 26 March 2025.
8. Following receipt of the application the Tribunal issued directions dated 9 June 2025 which directed that:
 - a. It considered that the application would be suitable for determination without a hearing.
 - b. The Respondent should send the Applicant a statement of truth with copies of all documents on which it relied.
 - c. The Applicant should send the Respondent a reply with copies of any other documents on which it relied.
 - d. The Applicant prepare a determination bundle.A timetable was set out in the directions with which the parties complied. Neither party requested an oral hearing.
9. The Tribunal has received a determination bundle comprising 84 pages. References to numbers within square brackets in this decision are to the numbered pages in the Bundle.

The Law

10. The relevant legislation is contained in Chapter 1 of Part 2 of CLARA.
11. Section 79 Notice of claim to acquire right provides:
 - (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
 - (2) The claim notice may not be given unless each person required to be given notice of the of invitation to participate has been given such a notice at least 14 days before.

12. Section 78 Notices inviting participation provides:
- (1) Before making a claim the RTM company must give notice to each person who at the time the notice is given, is (a) the qualifying tenant of the flat contained in the premises but (b) neither is nor has agreed to become a member of the RTM company.
13. The parties do not dispute that the Applicant is a RTM company.
14. Section 75 Qualifying Tenants provides:-
- (5) No flat has more than one qualifying tenant at any one time and subsections (6) and (7) apply accordingly.
- (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.
- Subsection (6) relates to flats held under two or more leases and is not relevant to this decision.

The Respondents objection to the validity of the claim notice.

15. The Respondent has objected to the validity of the claim notice in reliance on sections 78(1) and 79(2).
16. The Respondent's case is that the Applicant failed to give a notice inviting participation (NIP) to the joint qualifying tenant of Flat 19, Joseph Robert Ford. Instead, it gave a NIP, dated 22 October 2024, to Russell John Hannaford and Vada Rae Phillips-Hannaford of 19 White Lion Close. The Respondent submits that on that date, Russell John Hannaford was not the joint qualifying tenant and has provided an official copy of the land registry title which shows that Vada Rae Phillips-Hannaford and Joseph Robert Ford have been the joint qualifying tenants since "May 2024" [48].
17. The Respondent has also submitted that Vada Rae Phillips-Hannaford and Joseph Robert Ford are not members of the Applicant and provided a copy of the register of members with its statement of case.
18. Finally, the Respondent referred the Tribunal to what was, at the time, a pending appeal decision from the Court of Appeal in Cresta Court This appeal was subsequently determined and the decision issued on July 30, 2025 - **Avon Freeholds Ltd v Cresta Court E RTM Co Ltd CA 2025 WL 02146190.**

The Applicant's Reply

19. In response Nick Bignell has stated that RTMF obtained an official copy of the register of title for Flat 19 from the Land Registry which identified Russell John Hannford and Vada Rae Phillips-Hannaford as the registered proprietors. He has exhibited a copy of the official copy of the register as an exhibit to the statement [79]. Mr Bignell avers that at the 17 September 2024 the qualifying tenant and the legal owner of Flat 19 were Russell John Hannaford and Vada Rae Phillips- Hannford.
20. Mr Bignell referred to section the decision of the Upper Tribunal in **Cresta Court [2024] UKUT 335 (LC)** quoting paragraph 59 of Judge Elizabeth Cooke's decision to suggest that she said that if there is both a legal and equitable lease, either because an agreement for lease remains valid pending the completion of the lease or because a lease has been granted but not yet registered the context does not permit that the equitable lessee is the qualifying tenant. He concludes that in such circumstances the qualifying tenant is what he terms "the legal lessee".
21. Mr Bignell concludes that the Applicant has satisfied the provisions of both sections 78(1) and 79(2) by giving an NIP to "the legal lessee" who is the qualifying tenant.
22. Mr Bignell also submits that should the Tribunal decide that on the date the NIP was given to the tenant of Flat 19 by the Applicant Russell John Hannaford was not a joint qualifying tenant, service on Vada Rae Phillips-Hannaford, who remains the other joint qualifying tenant, was good service for the purposes of Section 78(1) citing **Sinclair Garden Investments (Kensington) Limited and Oak Investments RTM Company Limited LRX/52/2004**.

Reasons for the Tribunal's decision

23. The Applicant, prior to serving NIPs on those qualifying tenants who at that time, were not and had not agreed to be members of the Applicant would appear to have obtained official copies of the titles to the flats occupied by those leaseholders to establish on whom it should serve the NIPs. It has provided evidence that it obtained official copies of the title to Flat 19 on 17 September 2024 [81]. However close inspection of that shows that that it states that the official copy shows the entries on the register of title on **01 MAY 2024 at 11:51:13**.
24. It is therefore entirely foreseeable that the Applicant was aware that for a reason, which has not been disclosed, the land registry provided backdated official copies. It is my recollection that if it does so, the land registry alerts the applicant and offers it the opportunity to delay its application, pending the registry being able to supply up to date copies, but I accept that my working knowledge of current land registry practise may be inaccurate.
25. Nevertheless, I am satisfied that the Applicant should have noticed that the information it obtained with regard to the identification of the qualifying tenant of Flat 19 was out of date and concluded that it might not have been correct on the date it served the NIP (22 October 2024).

26. Mr Bignell submitted that if I found against him with regard to the identification of the qualifying tenant on 22 October 2024, service on one of the two tenants who jointly constitute the qualifying tenant would still constitute good service. I do not agree with him. He has referred to the case of **Oak Investments RTM**. In that case the LVT held that one joint tenant was not prejudiced by the failure of the RTM Co to serve him with a NIP. Firstly, that decision is not binding on this Tribunal. Secondly the issue with regard to a failure on the part of a RTM Co to give a notice of invitation to participate has been conclusively determined in **Avon Ground Rents Limited v Canary Gateway (Block A) RTM Company Limited & Canary Gateway (Block B) RTM Company Limited**. Mr Justice Fancourt, the Chamber President, concluded that Parliament did intend failure to give s.78 notices as required to invalidate a claim notice.
27. For those reasons I determine that the Applicant has not acquired the right to manage the Property.
28. Whilst not material to my decision I should mention that the references to the decision in **Cresta Court** which considered amongst other things legal and equitable ownership are not relevant to this application. That case was concerned with the registration of a new lease, pursuant to an agreement for lease. The original registered proprietors of Flat 19 were proprietors of a lease granted in 2016 and first registered in January 2017 [83]. The transfer of the Property to the current proprietors took place on the 30 April 2024 (the date of the registered charge) [64] and was registered on 1 May 2024 [63].

Judge C A Rai

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.