



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

Case reference : **LON/00AM/LRM/2025/0031**

Property : **Elliott House, 79a Alvington
Crescent, London, E8 2NN**

Applicant : **Elliott House RTM Company
Limited**

Representative : **The Leasehold Advice Centre**

Respondent : **AM Surveying Property Services
Limited**

Representative : **N/A**

Type of application : **Application in relation to the denial
of the Right to Manage under
s.84(3) of the Commonhold and
Leasehold Reform Act 2002**

Tribunal : **Tribunal Judge I Mohabir**

Date of decision : **10 February 2026**

DECISION

Decisions of the Tribunal

- (1) The Tribunal determines that the Applicant complied with the statutory requirement to serve a Notice to Claim a Right to Acquire the Right to Manage as required by section 78 of the Commonhold and Leasehold Reform Act 2002.
- (2) The Tribunal determines that on 8 November 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 £114 within 28 days of this Decision being issued, in respect of the reimbursement of the tribunal fees paid by the Applicant.

Background

1. Unless stated otherwise the page references in this decision are to the pages in the hearing bundle.
2. On 1 September 2025, the Applicant issued this 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 in relation to premises known as Elliott House, 79a Alvington Crescent, London, E8 2NN ("the premises"). The premises is a block of three self-contained apartments held on long residential leases, with a commercial unit on the ground floor
3. By a Claim Notice dated 25 June 2025, the Applicant gave notice that it intended to acquire the Right to Manage the Premises on 8 November 2025.
4. By a Counter Notice dated 5 August 2025 the Respondent freeholder disputed the claim, alleging that the Applicant was not entitled to acquire the right to manage the premises for two reasons, which is considered in turn below:
 - (a) by reason of Section 82 of Chapter 1 of Part 2 of the Act, sufficient information to support the claim has not been submitted in relation to register of members as not all members are subscribing members.
 - (b) by reason of Section 72 and Schedule Six of Chapter 1 of Part 2 of the Act, based on the available information, that the non-residential (commercial) floor area of the building exceeds 50% of the total internal floor area (excluding common parts), and, therefore, does not satisfy the eligibility criteria set out under Section 72(1)(b) of the Act.
5. The application was accompanied by a Statement of Facts and Further Particulars (at p.17). The Applicant asserted that the Respondent had acted frivolously and vexatiously in opposing the application and appears to make "an application for costs" (at p.22). It is not understood what application for costs the Applicant is making. If it is an application under Rule 13 in the

Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, then it should be made expressly and clearly by the Applicant as a stand alone application.

6. Upon receipt of claim notice, on 14 July 2025 (at p.59), the Respondent had requested extensive documentation. On 22 July 2025, the Applicant had provided this (at p.60-62).
7. On 14 October 2025, the Tribunal gave Directions. The issue to be decided is, namely whether on the date on which the notice of claim was given, the Applicant was entitled to acquire the Right to Manage (“RTM”) of the premises. It was directed that this matter could be determined on the papers unless either party requested a hearing. Neither party has done so. The Judge directed that the application form and the supporting documentation should stand as the Applicant’s statement of case. Pursuant to the Directions, the parties have filed the following:
 - (i) The Respondent’s Statement of Case (at p.106-107).
 - (ii) The Applicant’s Reply (at p.108-109).
 - (iii) A Bundle of Documents (122 pages).
8. The Tribunal’s determination took place on 10 February 2026 based on the evidence contained in the hearing bundle.

Decision

Register of Members

9. The Respondent contended that the Applicant has asserted that all three qualifying tenants of the premises are members of the RTM company. However, the evidence provided shows that only two individuals are subscribing members, being those who signed the memorandum of association at incorporation. The Applicant has failed to produce any register of members, as required under section 113 of the Companies Act 2006, or any documentary evidence that the leaseholder of the third flat has been admitted as a member following incorporation.
10. Section 82(1) of the Act provides:

“A company which is a RTM company in relation to any premises may give to any person a notice requiring him to provide the company with any information—

 - (a) which is in his possession or control, and
 - (b) which the company reasonably requires for ascertaining the particulars required by or by virtue of section 80 to be included in a claim notice for claiming to acquire the right to manage the premises”.
11. Section 113 of the Companies Act 2006 provides for the “Register of members”:

“(1) Every company must keep a register of its members.

(2) There must be entered in the register: (a) the names and addresses of the members; (b) the date on which each person was registered as a member, and (c) the date at which any person ceased to be a member.

....

(7) If a company makes default in complying with this section an offence is committed by (a) the company, and (b) every officer of the company who is in default.

(8) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale and, for continued contravention, a daily default fine not exceeding one-tenth of level 3 on the standard scale.”

12. The Tribunal did not accept the Respondent’s argument as being correct as a matter of law. The effect of section 113 of the Companies Act 2006 is that an RTM is required to keep a register of its members. The Tribunal was satisfied that there is no requirement for the Applicant to also keep a register of subscriber members. The fact that only two subscriber members are named in the Memorandum and Articles of Association (at p.25) is irrelevant.
13. The Tribunal found that the 3 participating leaseholders were in fact members of the Applicant company when the Notice of claim was served on the Respondent (at p.72). The Tribunal was, therefore, satisfied that the requirement in section 113 was met.
14. The Tribunal was supported in this view because the same or similar point raised by the Respondent has been taken in a number of earlier cases and rejected (at pp.81, 91 and 99). Indeed, Upper Tribunal Judge Elizabeth Cooke when refusing permission to appeal on the same point (at p.105) stated:

“the applicant (freeholder) is not entitled to see membership applications. There is no mention of such an entitlement in section 79 of the Commonhold and Leasehold Reform Act 2002. The applicant is not entitled to delve into the procedural background of the company; the FTT and the applicant must accept its membership as shown on the Companies Register”.

Commercial Area Exceeds 50% of the Total Internal Area

15. The Respondent’s case on this point amounted to no more than a bare assertion in those terms.
16. The Applicant’s uncontroverted evidence was the measured floor plans of the internal area of the premises. What this demonstrated without doubt is that the total internal areas exceeded the commercial area by more than 50% and the Tribunal found in those terms.

Costs

17. Given that the application has succeeded entirely, the Tribunal orders the Respondent to reimburse the Applicant the sum of £114 under Rule 13(2) of

the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 within 28 days of this decision being issued.

Conclusion

18. The Tribunal determines that the Applicant was on the relevant date entitled to acquire the right to manage the premises pursuant to section 84(5)(a) of the Act.

Name: Tribunal Judge I Mohabir

Date: 10 February 2026

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).